

# The Gazette of India



PUBLISHED BY AUTHORITY

No. 2] NEW DELHI, SATURDAY, JANUARY 12, 1963/PAUSA 22, 1884

## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 31st December, 1962:—

Issue No.	No. and Date	Issued by	Subject
366.	S.O. 3945, dated 28th December, 1962.	Ministry of Finance	Emergency Risks (Goods) Insurance Scheme.
	S.O. 3946, dated 28th December, 1962.	Ditto.	The Emergency Risks (Factories) Insurance Scheme.
	S.O. 3947, dated 28th December, 1962.	Ditto.	Declaration that the provisions of the Emergency Risks (Factories) Insurance Act, 1962 and of the Scheme made thereunder shall apply to the insuring against emergency risks with effect from the first day of January, 1963.
	S.O. 3948, dated 28th December, 1962.	Ditto.	Directions that the provisions of the Act and of the Emergency Risks (Factories) Insurance Scheme made thereunder shall with effect from the first day of January, 1963 extend and apply in the same manner as they apply to the insurance of property insurable under the Act.
	S.O. 3949, dated 28th December, 1962.	Ditto.	Employing the Oriental Fire and General Insurance Company, Limited, Bombay, to act as its agent for the purposes of the said Act conferred by Section 6.
	S.O. 3950, dated 28th December, 1962.	Ditto.	Specifying the first day of January 1963 as the date for the purposes of that Sub-section (r) of Section 5 of the Act.

Issue No.	No. and Date	Issued by	Subject
	S.O. 3951, dated 28th December, 1962.	Ministry of Finance	Specifying the first day of January 1963 as the date for the purposes of that Sub-section (i) of Section 7 of the Act.
	S.O. 3952, dated 28th December, 1962.	Ditto.	Employing the Oriental Fire and General Insurance Company Limited, Bombay, to act as its agent for the purposes of the said Act conferred by Section 4.
	S.O. 3953, dated 28th December, 1962.	Ditto.	Directives that the goods of the description specified in the Schedule annexed be deemed to be goods not insurable under the said Act.
367.	S.O. 3954, dated 28th December, 1962.	Ministry of Commerce & Industry.	Authorising Shri J. P. Goel, Officer on Special Duty, to take over the management of the R. B. Lachhmandas Sugar and General Mills (Private) Limited, Jarwal Road, District Bahraich.
368.	S.O. 3955, dated 31st December, 1962.	Ministry of Finance	Directives that the instruments made in the exercise of the executive power of the Union may be executed on his behalf by any officer of the Oriental Fire and General Insurance Company Limited.
369.	S.O. 3956, dated 31st December, 1962.	Ministry of Information & Broadcasting	Approval of the films specified therein.
	S.O. 3957, dated 31st December, 1962.	Ditto.	Approval of the film specified therein.

Copies of the Gazettes Extraordinary mentioned above, will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

### PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

#### ELECTION COMMISSION, INDIA

New Delhi, the 28th December 1962

S.O. 53.—The following Order of the Chief Election Commissioner is published for general information:—

#### ORDER NO. 9

In exercise of the powers conferred by section 8 of the Two-Member Constituencies (Abolition) Act, 1961, I hereby make the following corrections in Part B

of Schedule V of the Delimitation of Parliamentary and Assembly Constituencies Order, 1961, namely:—

(i) In the entry in column 2 against item '80 Vazhoor', after "Kanjirapally taluk" add "and Kavumbhagam Kara in Kottangal village in Thiruvella taluk (of Alleppey District)".

(ii) in the entry in column 2 against item '100 kallooppara' for "Kottangal" read "Kottangal (excluding Kavumbhagam Kara)".

New Delhi,

K. V. K. SUNDARAM,  
Chief Election Commissioner, India.

—The 28th December, 1962.

[No. 282/KL/62.]

**S.O. 54.—omitted.**

New Delhi, the 3rd January 1963

**S.O. 55.**—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 20th December, 1962, by the Election Tribunal (I), Chandigarh.

**BEFORE THE ELECTION TRIBUNAL (I) CHANDIGARH (PUNJAB)**

(Presided over by Mr. Sri Narain Sahai)

**ELECTION PETITION NO. 42 OF 1962**

(Jhajjar Parliamentary Constituency)

Shri Pratap Singh Daulta, son of Shri Man Singh, resident of Village Chimni, tahsil Jhajjar, district Rohtak—Petitioner.

*Versus*

1. Shri Jagdev Singh, son of Shri Prit Singh, resident of village Barhana, tahsil Jhajjar, district Rohtak.

2. Shri Ram Pat son of Shri Lekh Ram, Chambar, resident of village Ismalla, district Rohtak

3. Shri V. N. Kaushik, son of Shri G. R. Kaushik, resident of 118, Than Singh Nagar, New Delhi.

4. Shri Jagan Nath, son of Shri Tehla Ram, resident of Delhi Gate, Rewari, district Gurgaon—*Respondents*.

**JUDGEMENT**

This is an election petition filed under section 81 of the Representation of the People Act, 1951, (hereinafter referred to as the Act), by Shri Pratap Singh Daulta, a defeated candidate for a seat in the House of People from Jhajjar Parliamentary Constituency in the State of Punjab, challenging the election of Shri Jagdev Singh Sidhanti, respondent No. 1, the returned candidate.

The petitioner and the respondents along with four others were duly nominated as candidates for election from the aforesaid constituency to the House of People. The polling took place on the 24th February, 1962 and the result was declared on the 27th February, 1962. The petitioner and the respondents got the following number of votes:—

Shri Pratap Singh Daulta, Petitioner	1,11,005
Shri Jagdev Singh Sidhanti, respondent no. 1,	1,18,667
Shri Ram Pat, respondent no. 2,	20,665
Shri V. N. Kaushik, respondent no. 3.	6,929
Shri Jagan Nath Prasad, respondent no. 4.	20,433

The respondent no. 1, Shri Jagdev Singh Sidhanti, was declared elected having secured the largest number of votes.

The petitioner stood as a candidate of the Congress Party, while the returned candidate, Shri Jagdev Singh Sidhanti, was set up by the Haryana Lok Samiti. Respondent No. 2, Shri Ram Pat, stood as a candidate of the Republican Party, while the other two respondents were independent candidates.

The election of the returned candidate is challenged on the ground that the returned candidate, his agents and other persons with his consent had committed several corrupt practices. But, subsequently the petitioner made a statement before the Tribunal that the corrupt practices alleged in the petition were only confined to the persons mentioned in paragraph 5 of the petition, namely,

1. Shri Jagdev Singh Sidhanti, respondent no. 1
2. Shri Piare Lal Bhajnik,
3. Shri Badlu Ram,
4. Pt. Budh Deva,
5. Prof. Sher Singh,
6. Mahashe Bharat Singh, and
7. Acharya Bhagwan Deva.

According to the petitioner there are two sections of Arya Samaj in Punjab the Gurukul section and the College section. The seven persons above named belong to the Gurukul section and were amongst the chief organisers of the illegal Hindi agitation in the year 1957. The real object of this agitation was to promote feelings of enmity and hatred between the Sikhs and the Hindus of Punjab, on the ground of religion and language and afterwards to exploit these feelings for the promotion of their prospects in the general election to be held in 1962; and subsequently they actually exploited these feelings for the promotion of the election prospects of respondent no. 1.

It is also alleged that in the course of propaganda carried out by respondent no. 1 for his election, systematic appeals were made by him and, with his consent, by his agents and other persons who were canvassing to vote for respondent no. 1 and to refrain from voting for the petitioner, on the ground of religion and language. They also canvassed voters to refrain from voting for the petitioner who was a sitting member of the House of People from the Jhajjar Parliamentary Constituency on the ground of his being an enemy of the Arya Samaj and the Hindi language.

In paragraph 7 of the petition it is alleged, that the persons mentioned above organised a 'Vijay Diwas' (Victory Day) on the 1st January, 1958, in Chhotu Ram Park, Rohtak just after the termination of the Hindi agitation, and on and from that day respondent no. 1 began to hold himself out as a prospective candidate for the election to the House of Parliament from the Jhajjar Parliamentary Constituency. In that meeting, it is alleged, that Acharya Bhagwan Deva introduced respondent no. 1 as a prospective candidate for the Parliament from that constituency, to oppose the petitioner. Respondent no. 1 himself, in his speech, declared that he was sure of his success with the help of Arya Hindi Satyagrahis, if people worked hard in the three following years.

In paragraph 8 of the petition the allegations are that in order to further the cause of the returned candidate the persons mentioned in paragraph 5 of the petition and others started holding small and big meetings in the Jhajjar Parliamentary Constituency and in other Punjab Assembly Constituencies of the 'Hindi speaking area' and in these meetings they systematically appealed to the electorate to vote for respondent no. 1 and their other candidates on the ground of religion and language. They also invariably used the symbol of 'Om Dhwaj' in these meetings. In one of the meetings held in Bahu Akbarpur, district Rohtak, on 4th February, 1958, which was organised by respondent no. 1 and his supporters, they got the petitioner, Chaudhri Ranbir Singh M.P. and Chaudhri Ram Singh, D.I.G., ex-communicated from the 'Biradar' and also got them expelled from the Arya Samaj, on the ground that they were enemies of the Arya Samaj as they had opposed the movement for protection of Hindi.

In paragraph 9 of the petition it is stated that on the 30th April, 1961 the aforesaid persons, mentioned in paragraph 5 of the petition, organised a political convention in Dayanand Math, Rohtak, for the purpose of announcing openly their intention to participate in the coming general election of 1962. In that convention the formation of the Haryana Lok Samiti was announced. The name 'Haryana Lok Samiti' according to the petitioner, was meant to be a camouflage for the faction of the Arya Samaj organisation dominated by the persons named above. The propaganda and the appeal disseminated from the platform of the so-called Haryana Lok Samiti continued to be in the name of the Arya Samaj (a religious organisation) and its flag, the 'Om Dhwaj'.

Paragraphs 10 and 11 of the petition relate to a meeting held on the 2nd and 3rd December, 1961, at village Bohar which, according to the petitioner, was organised by respondent no. 1 and his agents and was known as the fourth session of Haryana Arya Maha Sammelan. According to the petitioner, in this convention respondent no. 1 and his agents inaugurated their election campaign. In the speeches made in that convention systematic appeal was made to the audience by respondent no. 1 and his agents to vote for him and to refrain from voting for the petitioner on the ground of religion and language. Their speeches were directed towards creating feelings of enmity and hatred between the Sikhs and the Hindus of Punjab. They also tended to bring undue influence on the electorate by inducing them to believe that anybody not voting for respondent no. 1 and voting for the petitioner would become an object of divine displeasure and spiritual censure.

Paragraph 12 of the petition gives the election meetings held under the auspices of the Haryana Lok Samiti to further the election prospects of respondent no. 1 at the following places in Jhajjar Parliamentary Constituency:—

Name of place	Date of meeting
1. Beri	10-12-61
2. Barhana	19-12-61
3. Dighal	7-1-62
4. Akheri Madanpur.	10-1-62
5. Sampla.	12-1-62
6. Ladpur.	16-1-62
7. Majra Dubaldhan.	19-1-62
8. Pakasma	28-1-62
9. Asaudha	7-2-62
10. Jhajjar.	11-2-62
11. Badli	12-2-62
12. Dulehra	15-2-62
13. Sisana	16-2-62
14. Bahadurgarh	18-2-62
15. Rohtak	4-2-62

Briefly put, the gravamen of the charge against the returned candidate is that in all these meetings he and his agents made a systematic appeal to vote for him and not to vote for the petitioner on the ground of religion and language. It is also alleged that in their speeches the persons mentioned above described the petitioner as an agent of the Sikhs. In all these meetings also undue influence was brought to bear on the electorate by inducing people to believe that anybody not voting for respondent no. 1 and voting for the petitioner will become an object of divine displeasure and spiritual censure.

It is also alleged in paragraph 13 of the petition that from 1st January, 1958, the day on which the respondent no. 1 announced his candidature till the date of the polling i.e. 24th February, 1962 in all these meetings he and his agents used and made appeals for votes in the name of religious symbol of 'Om Bhawaj'.

In paragraph 14 it is alleged, that the returned candidate and his agents realising that they could not get respondent no. 1 elected on the mere support of the votes of the peasant class alone, which was under the influence of Arya Samaj, they caused division in the non-agriculturist votes which were pro-congress, by bribing three of the non-agriculturists by paying various sums of money to them and persuading them to seek election from Jhajjar Parliamentary Constituency in the election of 1962. The names of the persons to whom bribes were given and their activities during the last general election are mentioned in paragraphs 14, 15, 16 and 17 of the petition.

In paragraph 18 of the petition it is alleged that respondent no. 1 exploited the feelings of Dhanuks and Balmikis by getting appeals issued by Shri Attar Singh Dhanuk and Shri Ramdhari Balmiki, both of whom were candidates for the local Vidhan Sabha in the general election of 1962 on Samiti tickets.

Paragraph 19 of the petition complains of the delay in despatch of postal ballot papers to the army personnel which resulted in thousands of ballot papers being received after 24th February, 1962 and not being counted.

In the result the election of the returned candidate is challenged on the ground that his election was void on the following grounds:—

- (a) That corrupt practices as detailed in various paragraphs and schedules of the petition have been committed by respondent no. 1 and by other persons with the consent of the respondent no. 1.
- (b) That the result of the election, in so far as it concerns respondent no. 1, has been materially affected by:
  - (i) Corrupt practices committed in the interest of respondent no. 1 by the agents of respondent No. 1,
  - (ii) Corrupt practices committed by the respondents nos. 2, 3 and 4 in the interest of the respondent no. 1, and
  - (iii) Non-compliance with the provisions of section 60 of the Representation of the People Act, 1951, and Rule 28 of the Conduct of Election Rules 1961 by the Returning Officer of the constituency.

Schedule 'A' gives the particulars of Bahu Akbarpur meeting, while Schedules 'C' and 'D' give the particulars of Bohar meetings and of other meetings mentioned in paragraph 12 of the petition.

The petition was contested by Shri Jagdev Singh Sidhanti, the respondent no. 1, alone. The case against others proceeded ex parte.

Shri Jagdev Singh Sidhanti, respondent no. 1, in his written statement denied the commission of any of the said corrupt practices. He has raised a number of preliminary objections. They are:—

- (i) That paragraph 20(a) of the petition requires further and detailed particulars in the absence of which paragraph 20(a) is liable to be struck off.
- (ii) That the petitioner has failed to specify in various paragraphs of his petition the names and particulars of persons whom he describes as agents of respondent no. 1, in paragraphs 10, 11 and 14.
- (iii) That the verification of Schedule 'D' is not in accordance with law and, as such, is liable to be struck off.
- (iv) That the allegation that there was delay in sending the postal ballot papers to the armed forces was vague and liable to be struck off.

- (v) That paragraph 20 is indefinite. It is not mentioned as to who were the agents and how their agency was created and which of the corrupt practices mentioned in paragraph 20(b)(i) relate to them.
- (vi) The corrupt practices detailed in various paragraphs and schedules have not been classified according as they fall in section 100(i)(b) or under section 100(d) (ii) of the Act.
- (vii) That various paragraphs and schedules do not refer to persons having acted in the commission of corrupt practices with the consent of respondent no. 1; clause 20(b) (I) does not specify the corrupt practices with reference to various paragraphs and Schedules.
- (viii) That the sections 123(3) and (3A) of the Act are *ultra vires* the Constitution of India.

It was further averred in the written statement that the allegation that there is any faction of the persons mentioned in paragraph 5 of the petition is wholly wrong. The allegations in paragraph 6 of the petition are denied and are described as a deliberate distortion of the aims and objects, purposes and activities of the Andolan for Sarva Deshik Bhasha Swatantrya, which were not to thrust any language on any people of any region against the wishes of the people of that region. Punjab was said to be an instance on the point. It was emphatically denied that the aforesaid persons ever acted as against of the answering respondent no. 1 or that they acted with his consent in any election matter. It is said that whatever they did they did on their own account. It was also denied that any movement for the conservation of Hindi language, Hindi script, Hindu culture or of any other language or culture could be illegal. In any case, the movement, it is said, was not directed towards creating feelings of enmity and hatred between the Hindus and the Sikhs of the State. It is urged that Hariana Lok Samiti had nothing to do with the Arya Samaj. It is emphatically denied that the language movement under the auspices of International Aryan League (Sarva Deshik Arya Pratinidhi Sabha) was launched with any election prospects in view. The second general election, it is pointed out, had hardly ended and the third general election was too far away to enter into any consideration. The allegation that any appeal was made for votes on the ground of religion and language is also denied.

The fact that a meeting was held on 1st January, 1958 at Rohtak is admitted. But it is denied that the subject of the next general election came up for consideration or discussion in the speeches delivered in this meeting. It is denied that the answering respondent No. 1 held himself out as a prospective candidate on 1st January, 1958 as mentioned in paragraph 7 of the petition or any day prior to the first week of December, 1961.

The allegations in paragraph 8 of the petition are described as indefinite and vague as they do not give any particulars of the meetings alleged to have been held. It is also denied that any appeal was made on the ground of religion or language or that the 'Om Dhawaj' was used or that the 'Om Dhawaj' is a religious symbol within the meaning of the expression as used in law.

The fact that a meeting was held at Bahu Akbarpur on 4th February, 1958 is admitted. But the allegations as regards the contents of the speeches at that meeting or that any one acted as the agent of respondent No. 1 are denied. According to respondent No. 1, that meeting was of a social body known as 'Sarva Khap Panchayat' and had nothing to do with the elections. It is also denied that the petitioner, Ch. Ranbir Singh M.P., and Ch. Ram Singh D.I.G. were ex-communicated from religious and social biradari of Hariana, on the ground that they had opposed the Hindi movement.

The fact that Hariana Lok Samiti was established on the 30th April, 1961 is admitted. But it is denied that it was a camouflage for faction of the Arya Samaj which was dominated by the persons mentioned in paragraph 5 of the petition. As a matter of fact, this Samiti was formed at a representative gathering of a large number of persons excluding congressmen with a view to devise ways and means of polling the resources of all political parties operating in the Hariana area for the protection of the interest of the area without regard to political affiliations.

The fact that there was a meeting at Bohar on 2nd and 3rd December, 1961 is admitted. That meeting was divided in two sessions; the first one was a religious session and the second was a political session which was held the next day in the afternoon. It is denied that the session at Bohar was convened to inaugurate a regular election campaign. But it is admitted that this occasion was

utilised by Haryana Lok Samiti to hold a political session in the afternoon of 3rd December, 1961 in connection with their election campaign. The allegations that in this meeting speeches were made which tended to create hatred between Hindus and Sikhs or an appeal was made for votes on the basis of religion or language are denied.

The fact that meetings were held on different dates and at different places mentioned in paragraph 12 of the petition is admitted except in regard to the date of one meeting which is not in controversy. The fact that the meetings were convened by respondent No 1 or persons mentioned in paragraph 5 of the petition is denied. According to the respondent No 1 the meetings were held at the instance of the villagers themselves though all the meetings were under the auspices of the Haryana Lok Samiti. Respondent No 1 was a candidate from the Jhajjar Parliamentary Constituency sponsored by the Haryana Lok Samiti and in that capacity he also attended those meetings.

The respondent No 1 emphatically denies that any one including the persons mentioned in paragraph 5 of the petition was acting as his agent or that he was responsible for any action of theirs. He also denied that any appeal on the ground of religion and language was made either by himself or by anybody in any one of the meetings mentioned above. No speeches were, according to him, made by any person including himself, which tended to create hatred between the two communities of Punjab, namely, the Hindus and the Sikhs. The respondent No 1 also denies that anybody said during those meetings that if the electors did not vote for the respondent No 1 or voted for the petitioner they would incur spiritual censure and divine displeasure.

The answering respondent emphatically denies that he ever set up the other three respondents i.e. Shri Ram Pat, Shri V N Kaushik and Shri Jagannath Prasad by giving them bribes in order to divide the congress votes so that the chances of the petitioner, who was a congress candidate, may be jeopardised or that he was responsible for their action during their election campaign. Lastly, it is asserted that he was not guilty of any corrupt practices alleged by the petitioner and the petition was liable to be dismissed and he was entitled to get his costs.

On the above pleadings of the parties the following issues have been framed —  
*Issues*

1 Is the petition bad for want of proper particulars, as alleged in the preliminary objections in the written statement of respondent No 1 in paragraphs 1 to 4? If so, with what effect?

2 Are the allegations contained in paragraph 20 of the petition indefinite and vague because they do not give the details of corrupt practices and do not classify them according to section 100 (1) (b) or section 100 (2) (d) of the Representation of the People Act, 1951? If so, with what effect?

3 Are the allegations of corrupt practices alleged covered by the provisions of section 123(3) and section 123(3A) of the Representation of the People Act? If so, with what effect?

4 Whether sub-sections (3) and (3A) of section 123 of the Representation of the People Act, 1951, are *ultra vires* the Constitution? If so, with what effect?

5 Whether the persons mentioned in paragraph 5 of the petition were agents of respondent No 1?

6 What is meant by the phrase "Illegal Hindi Agitation" used in paragraph No. 6 of the petition? Was it one of its objects to promote feelings of enmity and hatred between the Hindus and the Sikhs on the ground of religion and language? How has it affected the result of the election?

7 Who were the 'Chief Organisers' of that agitation? Was it meant to exploit the feelings of the electors in the constituency for the promotion of prospects of the returned candidate in the general election to be held in 1962?

8 Did Acharya Bhagwan Deva introduce respondent No 1 at the meeting referred to in paragraph 7 of the petition 'as a prospective candidate' for Jhajjar Parliamentary Constituency to oppose the petitioner?

9 Did respondent No 1 declare in his speech that "He could defeat the petitioner with the help of the Arya Hindi Satyagrahis, if they worked for three years to come"?

10. Did respondent No. 1 and his agents act as alleged in paragraph 8 of the petition?

11. Did the persons mentioned in paragraph 5 of the petition organise a political convention with the aim and object as mentioned in paragraph 9 of the petition? If the answer of issues Nos. 9 to 11 is in the affirmative, what is its effect on the result of the election?

12. Whether respondent No. 1 and his agents delivered speeches as alleged in the petition in the meeting held on 4th February 1958 at village Bahu Akbarpur? If so, what will be its effect?

13. Whether the petitioner was ex-communicated from religious and social bidadari in the aforesaid meeting at the instance of respondent No. 1 and his agents? If so, whether it amounts to a corrupt practice?

14. Whether 'Om Dhwaj' is a religious symbol of Arya Samaj? If so, was it used in the meetings convened in support of the election of respondent No. 1? If so, with what result?

15. Whether Harijan Lok Samiti of which respondent No. 1 was a candidate exploited the religious feelings of the electors?

16. Are any of the allegations which form the subject matter of issues 1 to 6 proved? What is its effect on the election of the returned candidate?

17. Whether in the meetings held on 2nd and 3rd December, 1961 at Bohar speeches were made by respondent No. 1, the returned candidate, and his agents appealing to voters to vote for him on religious grounds and asking the audience to refrain from voting for the petitioner on the grounds of religion and language? Whether the speeches were made to promote feelings of enmity and hatred between the Sikhs and Hindus? If so, with what effect?

18. Was undue influence brought to bear upon the electors by impressing upon them that those who did not vote for respondent No. 1, the returned candidate, would incur divine displeasure? If so, with what effect?

19. Whether the aforesaid meetings on 2nd and 3rd December, 1961 were held at Bohar in two sessions, one of the sessions being confined to the religious activities, while the political one started after the first had come to an end?

20. Whether the Public meetings except No. 4, mentioned in paragraph 12 of the petition, were held in support of the candidature of the returned candidate in the manner alleged in that paragraph? If so, with what effect?

21. Whether Shri Ram Pat Chaudry, respondent No. 2, and Shri V. N. Kaushik, respondent No. 3, and Shri Jagan Nath Prasad, respondent No. 4, were set up candidates by the returned candidate, respondent No. 1, in order to divide votes?

22. Were the various sums alleged in paragraph 14 of the petition paid as bribe to the persons mentioned therein to ruin the chances of the petitioner?

23. Did the respondents Nos. 2, 3 and 4 adopt the various questionable means during their election campaign to further the cause of the declared candidate, respondent No. 1?

This issue was reframed on 3rd September 1962 and now it runs as follows:—

"Were the respondents Nos. 2, 3 and 4 guilty of corrupt practices during their election campaign."

24. Whether the despatch of ballot papers to the Army Personnel was delayed by the Returning Officer which resulted in a large number of ballot papers not being received in time and has it materially affected the result of the election of the petitioner?

25. To what relief, if any, is the petitioner entitled?

In order to appreciate the nature of controversy between the parties, I think it necessary to give the background, as it emerges from the evidence on the record, of the Hindi andolan, popularly called the 'Hindi Agitation Movement', in Punjab.

Punjab is divided into two regions; one is the 'Hindi speaking area' and the other is the 'Punjabi speaking area'. The Hindi speaking area includes the districts of Gurgaon, Rohtak, Mahendragarh, Hissar, Karnal and half of Ambala district i.e.

Ropar and Ambala tahsils and Kangra. The Punjabi speaking area includes all the districts of Jullundur and Patiala divisions and the remaining area of Ambala District. The Hindi speaking area is almost entirely populated by Hindus, while the Punjabi speaking area is populated by Hindus and Sikhs both and their percentage is 52 and 48 respectively. In the United Punjab, only Urdu and English were two official languages. Hindi was patronised by the Arya Samaj and the Sanatan Dharm educational institutions, while Punjabi was patronised only by the Sikh educational institutions. For examination purposes Punjabi was allowed to be written in Urdu, Hindi and Gurmukhi scripts.

The language controversy arose in Punjab after the partition when the Government of the day decided to replace Gurmukhi and English by Hindi in the 'Hindi speaking area' and 'Punjabi in the Punjabi speaking area'. Controversy arose as the Hindus in Punjabi area dis-owned Punjabi in Gurmukhi script at the time of census. The reason for dis-owning was that a communal political organisation known as 'Akali' claimed Punjabi in Gurmukhi script as part of their 'Dharm' and culture and they demanded a separate State on the linguistic basis.

The reason why the Hindus of the Punjabi area refused to acknowledge Punjabi as official language of that area was twofold; firstly, because the Akalis were claiming Gurmukhi as part of their religion, and secondly, as this claim of their was followed by a claim for separate province on linguistic basis which would have been highly detrimental to Hindus living in that area. The party in power being Congress, at the instance of the Congress High Command and in collaboration with the Akalis, who had also joined the congress, the Punjab ministry evolved a formula which is known as 'Sachar Formula.' The salient features of that formula are that every student reading in Punjab schools, by the time he passes his matriculation examination should be proficient both in Hindi and Punjabi. According to this formula Punjabi means Punjabi written in Gurmukhi script and Hindi means Hindi written in Devanagri script. It also provided that in the Punjabi speaking area every student for the first three standards will read Punjabi and then from the fourth standard onwards both Punjabi and Hindi, *vice versa*, in the Hindi speaking area the students of the first three standards were to read Hindi and thereafter from the fourth standard onwards both the languages. This formula was generally agreed to and signed by almost all the members of both the legislatures in this State. Shri Bhim Sen Sachar, who was then the Chief Minister of this State, after obtaining the approval of those who mattered informed the Congress High Command of this formula. On receipt of that information Sardar Patel, who was then Home Minister, came to Simla and in his presence the above formula was finalised and in token thereof two members of the Sikh community, Sri S. B. Ujal Singh and Sri Gian Kartar Singh and two members on behalf of the Hindu community, namely, Dr. Gopichand Bhargava and Shri Bhim Sen Sachar put their signatures. No objection was raised by any member of the Congress organisation at that time. The only political organisation which opposed it was Jan Sangh. This was also objected to by religious bodies like the Arya Samaj and the Sanatan Dharm in Punjab. The Sachar Formula is dated the 1st November, 1949.

Later on a regional formula was evolved on the basis of Sachar Formula. In pursuance of it two Regional Committees were formed; one was known as Hindi Regional Committee and the other as Punjabi Regional Committee. The function of both the Committees was to advise the Local Government in matters of finances and other matters connected with two different areas, namely, the Punjabi speaking area and the Hindi speaking area. This regional formula was approved by the Parliament on the 26th April, 1956. The formation of these two Regional Committees was highly resented by the people living in the Punjabi speaking area. Feeling against the language policy of the Government started only when the Local Government wanted to implement the 'Sachar Formula'.

The Hindi Agitation Movement first started in the Punjabi speaking area of this State and was conducted by a committee known as Hindi Raksha Samiti, formed by the Punjab Arya Pratinidhi Sabha and Punjab Pradeshik Arya Pratinidhi Sabha and one or two other organisations of the Punjab. But subsequently this agitation was taken up by the Sarva Deshik Arya Pratinidhi Sabha, Delhi on 23rd July, 1947. This Sabha founded another body which is known as Sarva Deshik Bhasha Swatantry Samiti to conduct the whole movement. Besides the reasons given above there was another reason for starting this agitation, that there was a firm belief that Hindi was being neglected in this State. At first when this movement started, it was confined to Punjab alone. After this movement was taken over by Sarva Deshik Bhasha Swatantry Samiti, it assumed an all India character.

The agitation against the language policy of the Government gained strength and took the form of a mass movement in 1957 in the entire state of Punjab, though it had originally started in the Punjabi speaking area.

The first Satyagrah in pursuance of the Hindi Agitation Movement took place at Chandigarh and thereafter in Rohtak in Punjab. Numerous persons offering Satyagrah were arrested and detained. Latter on, in the last week of December, 1957, in view of some settlement between the organisers of the Satyagrah and the State Government the movement was called off and the detainees and the prisoners lodged in different jails of the Punjab were released.

I have given this background as, according to the petitioner, this agitation was made the main plank on behalf of the respondent No. 1 for securing votes for himself in contesting the Parliamentary seat from the Jhajjar Constituency against the petitioner. I might also mention here that there are two big sections of the Arya Samaj in Punjab; one is called the 'Gurukul Section' and the other is called for 'College Section'. The Gurukul Section is again divided into two sub-sections viz. Haryana Section and Mahashe Krishna Section.

I have already decided the preliminary objections regarding the verification of Schedule 'D' and that the affidavit was not in accordance with section 83(1) Proviso of the Act by my orders dated the 16th August and 3rd September, 1962. Mr. D. D. Jain, learned counsel for the petitioner, has, at the very outset of his argument, stated that the corrupt practices alleged to have been committed by respondent no. 1 are confined to clauses (2), (3) and (3A) of section 123 of the Act.

Now I propose to deal with each of the issues in the case.

#### **Findings**

##### **Issue Nos. 1 and 2.**

These issues have already been disposed of by my order dated the 3rd September, 1962.

##### **Issue Nos. 21 22 and 23.**

Not an iota of evidence has been produced on behalf of the petitioner in support of these issues. As a matter of fact, these issues were not pressed before me. They are, accordingly, decided against the petitioner.

##### **Issue No. 24.**

At the time of the hearing of the preliminary objections, Mr. Anand Swarup, learned counsel for the petitioner, stated that he did not press the plea covered by this issue. I, accordingly, by my order dated 3rd September, 1962, directed this issue to be deleted. This issue does not, therefore, arise for consideration.

##### **Issue No. 5.**

According to paragraph 8 of the petition the persons mentioned in paragraph 5 of the petition were the agents of the respondent no. 1. In the petitioner's own evidence it has not been expressly stated anywhere that the aforesaid persons were the agents of the first respondent. The only thing of the petitioner has stated is that the respondent no. 1 and the aforesaid persons were tied to each other by three kinds of relationship; i.e. religious, social and political. By 'religious' he meant that they belonged to Gurukul section of Arya Samaj; by social he meant that they were of the same caste and were related to each other e.g. Prof. Sher Singh is the son-in-law of Pt. Budh Deva and Prof. Sher Singh's sister is married to the brother of Shri Sidhanti. He admitted that so far as others were concerned he did not know whether they were related to one another or not, but they were members of the Jat community, except Mahashe Bharat Singh. By 'political' he meant that they were all followers of Prof. Sher Singh in political matters. It is significant that in his evidence he has nowhere referred to Prof. Sher Singh, Ch. Badlu Ram, Mahashe Bharat Singh, Acharya Bhagwan Deva, Pt. Budh Deva and Shri Piare Lal as agents of respondent no. 1. On this point there is no other evidence worth the name on behalf of the petitioner. On the contrary, all the seven persons mentioned in paragraph 5 of the petition have entered the witness-box. Respondent no. 1 has denied that he and the other six mentioned above were tied to each other either by bonds of friendship or business or of any other kind except that Pt. Budh Deva and he were connected with the Arya Pratinidhi Sabha, Punjab, of which Pt. Budh Deva was the Pradhan and respondent no. 1 Up Pradhan. He emphatically

denied that he had ever appointed Prof. Sher Singh, Acharya Bhagwan Deva, Mahashe Bharat Singh, Shri Piare Lal, Ch. Badlu Ram and Pt. Budh Deva as his agents in the election. He has also stated that he never asked them for any assistance or ever asked them to canvass for him or to give speeches or to call meetings in connection with his election and its campaign. He also stated that he was not responsible for the speeches made by them or for their actions during the election days. The other six i.e. Prof Sher Singh, Shri Piare Lal, Ch. Badlu Ram, Pt. Budh Deva, Acharya Bhagwan Deva and Mahashe Bharat Singh have also in their deposition stated that they were never appointed agents by the respondent no. 1 and that they never acted on his behalf during the election days. Prof. Sher Singh has stated that he was not responsible in any way, for the Hindi Agitation Movement. It was not the purpose of this agitation to create hatred between the Hindus and the Sikhs of the State. He also stated that when this movement was started nobody thought of the next general election of 1962, as the general election of 1957 had just come to an end. He also denied that there was any such party of his or of others as mentioned in paragraph 5 of the petition.

Mr. Remeshwar Dayal, learned counsel for the respondent no. 1, has contended before me that in view of the recent amendments in the Act the scope of agency has been very much narrowed down, and the principles of English Law will have no application now to the cases coming under the Representation of the People Act. In support of his contention he has relied upon certain observations made by a Division Bench of the Allahabad High Court in the case of Rustam Sutin V. Dr. Sampurnanand and others, 20 E.L.R. 221, in which it was held that:

"So far as the election law in this country is concerned it is a creation of statute and as such has to be interpreted in accordance with the provisions of that statute. Section 100 of the Act clearly refers to the corrupt practices committed by four classes of persons only, viz., the candidate, his election agent, persons acting with the consent of the candidate or his election agent, and those acting without such consent. The corrupt practices committed by the first three classes of persons are covered by section 100(1)(b) while those committed by persons falling in the forth class are provided against in section 100(1)(d)(ii). The language of section 100 is clear and unequivocal and, therefore, whatever the position in English law as regards the liability of candidate for the acts of his agent may be, that position cannot be held to obtain in this country."

Section 79(a) defined the term "agent" in the following words:—

"'agent' includes an election agent, a polling agent and a counting agent and any person who, on the trial of an election petition or of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate".

But this clause was omitted by Act 27 of 1957 and now the definition of the term 'agent' as it stands today is to be found in Explanation (i) of section 123 of the Act in the following words:

"In this section the expression 'agent' includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate".

The significant change brought about in the definition of the term 'agent' as it stands now is that the words "with the knowledge of the candidate" finds no place in it. The deletion of the words "with the knowledge of the candidate" has certainly narrowed down the scope of agency. It will be noted that the definition is an inclusive one and is not intended to be exhaustive. Whether a certain person is an agent of a candidate or not for election purposes depends on the facts and circumstances of each case. The only thing required is that he must have acted:

- (i) as an agent;
- (ii) in connection with the election;
- (iii) with the consent of the candidate.

On behalf of the petitioner it is urged that even if these persons had not been expressly appointed agents of the respondent No. 1 and they worked for him and he took advantage of their efforts they should be deemed to be his agents.

It is true that, as stated by Parker in his book on Election Agent and Returning Officer, 5th Edition at page 311, that

"the doctrines of election agency are much wider than those of common law agency, and evidence which would be quite inadequate to establish agency at common law, has often been held sufficient in election cases to make a candidate responsible for acts committed by other persons."

But even under the wider concept of agency in Election Law, before a person can be held to be the agent of the candidate it must be established that the candidate directly or indirectly recognised him or made use of him or took advantage of his acts for furthering his own election prospects. As has been put in Halsbury's Laws of England, Vol. 12 page 245, para 501:

"The candidate's liability under this principle may extend to the acts of every person who is *de facto* a member of the staff which is conducting the election and whose services are directly or indirectly recognised or made use of by the candidate or his election agents, whether such person be paid or unpaid. The crucial test is whether there has been employment or authorisation of the agent by the candidate to do some election work, or the adoption of his work when done."

In support of his contention the petitioner has relied upon certain observations made by Sarju Prasad, C.J. in the case of:

Nani Gopal Swami V. Abdul Hamid Chowdhry 19 E.L.R. 175.

The observations are:

"For the purposes of the Representation of the People Act, 1951, the expression 'Agent' has a much wider connotation than it is ordinarily understood to have under the law of contract. Any body who acts in furtherance of the prospects of the candidate's election May be said to be an agent of the candidate concerned, provided he does so with the consent of the candidate. This consent need not be necessarily an express consent and no written document is necessary but may be gathered and implied from the circumstances of the case.

An 'agent' includes not only a person who has been specifically engaged by the candidate or his election agent to work for him in the election, but also a person, who does, in fact, work for him and whose services have been accepted by the candidate.

"An association of persons or a society or a political party and its prominent members, who set up the candidate, sponsor his cause and work to promote his election may be aptly called the 'agent' of the candidate for election purposes.

Direct evidence of consent of the candidate to a corrupt act done by his agent may not be available in most cases; and for obvious reasons it would be unwise to insist upon the production of direct evidence in every case. Here also the consent of the candidate to the act complained of or to his acceptance thereof has to be inferred from the facts and circumstances proved in the case.

To prove that the persons mentioned in paragraph 5 of the petition were the agents of respondent No. 1 in the wider sense, therefore, it was necessary for the petitioner to prove that they had been either employed or authorised by the respondent No. 1 to do some work in furtherance of his election prospects or that the respondent No. 1 had actually adopted the work done by them. Nothing of this kind has been proved. It is an admitted fact that respondent No. 1 has not appointed any election agent. All the six persons concerned are persons having their own standing in society. They were interested on their own account in supporting the claims of the Hindi language. They were members of the Arya Samaj. All of them were not even members of the Hariana Lok Samiti, which had set up the respondent No. 1 as one of its candidates. Whatever these persons did at the time of the election could, therefore, very well have been done by them in their individual capacities for the furtherance of the principles and ideas which they were advocating. In the absence of any satisfactory evidence that they held any direct or indirect authority on behalf of the respondent No. 1 to canvass for him or that the respondent No. 1 accepted what they did as work done on their own behalf, simply on the basis of the similarity between some of the ideas that were being advocated by them and the respondent No. 1, it is not possible to infer necessarily that they were the agents of the respondent No. 1 for election purposes.

In fact, there is material on record to show that the six persons concerned were never asked to canvass for the respondent No. 1 and did, what they did, on their own account and not at the instance of or for and on behalf of the respondent No. 1.

Thus Mahashe Bharat Singh (R.W. 12) stated that he was not an agent of Shri Sidhanti in his election and he (Shri Sidhanti) never asked him to canvass for him. He further stated that he never made any speech at his instance for votes nor did he convene any meetings during the election days for Shri Sidhanti in his individual capacity.

Ch. Badlu Ram (R.W. 14) stated that it was incorrect that Hariana Lok Samiti was founded by the seven persons mentioned in paragraph 5 of the petition for their own ends. He also denied that he ever worked as an agent of Shri Sidhanti during his election or gave any speech at his instance. He certainly asked people to vote for Samiti candidates and not for any individual.

Pt. Budh Deva (R.W. 18) stated in his deposition that there was no faction or party of the seven persons mentioned in paragraph 5 of the petition. He also said that neither he was present at the foundation meeting of the Hariana Lok Samiti nor was he invited to attend it. He also stated that he was never appointed by Shri Sidhanti to work in his election campaign as his agent and all his speeches were made at his own initiative and not at the initiative or with the consent of Shri Sidhanti.

Prof. Sher Singh (R.W. 19) stated that there was no such party of his and other persons mentioned in paragraph 6 of the petition. He also stated that he never acted as an agent of Shri Sidhanti in his election and none of his speeches was made at his instance or with his consent.

Acharya Bhagwan Deva (R.W. 20) deposed that he did not attend the foundation meeting of the Hariana Lok Samiti. He further stated that he was not an agent of Shri Sidhanti in the election and he had given all his speeches of his own accord. He added that his speeches were neither at the instance nor with the prior consent of Shri Sidhanti.

Shri Jegdev Sidhanti, the returned candidate (R.W. 21) stated in his deposition:

"It is incorrect that I and the other six mentioned in paragraph 5 of the petition formed a Hariana group of Arya Samaj of Gurukul section. It is also incorrect that we worked as a team in Arya Samaj, in the Hindi Raksha Samiti, Sarva Khap Panchayat and Hariana Lok Samiti".

He further stated that he had not appointed any election agent and had not set up any office in connection with his election. He denied that he ever appointed Prof. Sher Singh, Acharya Bhagwan Deva, Mahashe Bharat Singh, Shri Piare Lal, Ch. Badlu Ram and Pt. Budh Deva as his agents in the election. He also stated that he had never asked for any assistance or had asked them to canvass for him or to give speeches or to call meetings in connection with his election and its campaign. He completely denied any responsibility for the speeches made by the aforesaid persons or for their action during the election days.

In the absence of any reliable evidence to the contrary the evidence of the aforesaid persons on behalf of the returned candidate has to be accepted. Even the petitioner's witnesses, Ch. Maru Singh (P.W.2), Pt. Shri Ram Sharma (P.W.6), Shri Tara Chand (P.W. 8) and Acharya Harish Chandra (P.W. 21), who are witnesses on this point do not support the allegation of the petitioner that the persons other than the respondent No. 1, mentioned in paragraph 5 of the petition acted as the agents of the respondent No. 1.

In this state of evidence, I am of opinion that the petitioner has completely failed to establish his plea that the aforesaid persons were agents of the respondent No. 1 and acted as such during his election.

This issue is, accordingly, decided against the petitioner.

#### *Issue Nos. 6 and 7.*

According to paragraph 6 of the petition the persons mentioned in paragraph 5 of the petitioner were amongst the chief organisers of the 'illegal Hindi agitation' in the year 1957, the real object of which was to promote feelings of enmity and hatred, on the ground of religion and language and afterwards to exploit these feelings for promotion of their prospects in the general election to be held in 1962. It is alleged that subsequently they actually exploited these feelings for the promotion of the election prospects of respondent No. 1.

I have already given above a brief history of the Hindi Andolan which was started some time in the middle of the year 1957. Shri P. S. Daulta, the petitioner, has stated in his evidence that the language controversy arose after the partition when the Government of the day decided to replace Gurmukhi and English by Hindi in the Hindi speaking area and Punjabi in the Punjabi speaking area. In the census operations the Hindus in the Punjabi area disowned Punjabi in Gurumukhi script. According to him the reason why they did that was that a communal political organisation known as 'Akali' proclaimed Punjabi in Gurumukhi script as a part of their 'Dharam' and culture and also demanded a separate province on linguistic basis. On that account the Hindus of the area refused to acknowledge Punjabi as the official language of the area. He also stated that for implementing the regional formula which was evolved on the basis of Sachar Formula two regional committees were formed; one known as Hindi Regional Committee and the other as Punjab Regional Committee. The function of both the committees, according to him, was to advise the Local Government in matter of finances and other matters concerned with the two different areas i.e. the Punjabi speaking area and the Hindi speaking area. This regional formula was approved by the Parliament on the 26th April, 1956. He has also stated that the formation of the two regional committees created 'panic and terror' among the Hindus living in the Punjabi speaking area. He has also stated that, in the first instance, the Hindi agitation was started by the Hindus of the Punjabi speaking area against these regional committees.

According to the petitioner, since Prof. Sher Singh was dropped from the Ministry in this State he along with his party started this movement in order to impress upon those who were responsible for his exclusion that without his support it was impossible to run the Government in the State in a normal way.

According to the petitioner the Hindi Agitation Movement was unlawful as an order promulgated under section 144 of the Code of Criminal Procedure barred it and actions were taken, against those participating in this movement, under section 107 of the Code of Criminal Procedure and against some of those participating in the Satyagrah who had distributed the issues of the 'Daily Pratap', a paper from Delhi in this State, where it was under a ban. No evidence has been produced on behalf of the petitioner to establish these facts except his solitary testimony. The respondent No. 1 has denied that his movement was under any ban. The fact that the Hindi agitation Movement was started in 1957 is not borne out even from petitioner's own evidence, though it took the form of Satyagrah in 1957. It is stated in paragraph 6 of the written statement, that the Sachar Formula which was evolved in 1959 was opposed by all Hindi speaking areas of the Punjab and a movement was started to resist its enforcement. In or about June 1956 a large gathering of all lovers of the Hindi language was called at Jullundur under the auspices of the Arya Pratinidhi Sabha, Punjab, Gurukul Section, and Arya Pradeshik Pratinidhi Sabha, College section. The position regarding the language policy of the Government and the Congress party in power was generally reviewed and a body known as Punjab Hindi Raksha Samiti was constituted. The convention put forward a number of demands for the consideration by the Government, but when there was no satisfactory response to those demands, the Samiti decided upon non-violent peaceful Satyagrah to call the attention of the Government both in the State and at the Centre to the problem and strong feelings of a vast section of the people. In pursuance of it a token symbolical 'Satyagrah' took place on or about 29th May, 1957 in Chandigarh, led by Swami Atmanand. It was said to be a good-will mission. But as it did not produce the desired effect the matter was taken up by the International Aryan League, Delhi and it constituted a body known as 'Sarva Deshik Bhasha Swatantrya Samiti' and thereafter the whole movement was conducted by this body.

Even according to the statement of the petitioner, the Hindi agitation was supported not only by the Sidhanti group which included mostly the Jats living in the Hindi speaking area of the Punjab and of Meerut in Uttar Pradesh, but by the Hindus of the Punjabi speaking area also.

Even the witnesses examined on behalf of the petitioner have not characterised this movement as an illegal one. Acharya Harish Chandra (P.W. 21), who participated in this movement did not state that it was an illegal movement. According to him this movement was started by the Arya Pratinidhi Sabha of Punjab for the protection of Hindi and was taken up later on by the Sarva Deshik Arya Pratinidhi Sabha, Delhi.

Shri Maru Singh (P.W. 2) has stated that the Hindi agitation was started for teaching Hindi in the Hindi region and against the compulsory teaching of

Gurumukhi on the people of that region. He has also stated that this agitation was not confined to Arya Samaj alone but the people of other tenents also had not only participated in it but had gone to jail after courting arrest. He has also not described this movement as illegal.

Ch. Udai Singh Mann (P.W. 30) who was a member of the Local Legislative Council for the last ten years i.e. from 1952 to 1962 has stated, that there was no trouble apparent on the face between Hindus and Sikhs during the Hindi Agitation Movement days. The Hindi Agitation Movement was conducted on non-violence lines. He further stated that he could not tell whether there was an open conflict between the Hindus and the Sikhs in the State of Punjab or not, but certainly there was none in Rohtak. He also said that this movement was not directed against the Sikhs but it was against the policy of the Local Government. The evidence of this witness completely shatters the case of the petitioner that the Hindi Agitation Movement was started in order to create hatred between the Hindus and the Sikhs.

As a matter of fact, none of the petitioner's witnesses has called this movement as illegal which was for the protection of Hindi language. Mr. Rameshwar Dual, learned counsel for respondent No. 1, has urged before me that admittedly the movement was a peaceful and non-violent one and the mere fact that the Local Government, for the maintenance of law and order, took certain measures in regard to it could not and did not make the movement an unlawful one. I think there is force in this contention.

Shri Ghansham Singh Gupta (R.W. 2), who has been the President of the Sarva Deshik Bhasha Swatantrya Samiti, and who was also a member of the Sarva Deshik Arya Pratinidhi Sabha and is the working President of the International Aryan League, has given a complete picture of the Hindi Agitation Movement which, according to him, was wrongly described as such. He has said in his evidence:—

"This popularly called Hindi Agitation Movement first started in the Punjabi speaking area of this State and was conducted by a Committee formed "by the 'Punjab Arya Pratinidhi Sabha' and 'Punjab Pradeshik Arya Pratinidhi Sabha' and one or two other organisations. But subsequently they thought that it would be better if the whole matter is referred to the Sarva Deshik Arya Pratinidhi Sabha. Then this matter was taken up by the Sarva Deshik Arya Pratinidhi Sabha some time in July, 1957. Sarva Deshik Arya Pratinidhi Sabha founded a body which is known as 'Sarva Deshik Bhasha Swatantrya Samiti' to conduct the whole movement.

This agitation was started because the people of Punjab thought that Hindi was being neglected. This agitation came into existence among the people of this State some time near about April or May, 1957. Originally when it was started by the Punjab Organisation it was called 'Hindi Raksha Samiti,' but when it came under our control then we purposely made it comprehensive so that it may include freedom for all languages and not confined to Hindi alone. There was no purpose behind this movement except the linguistic question."

He also stated that after the movement had come under control of Sarva Deshik Arya Pratinidhi Sabha, it became an All India movement and was neither directed against any community nor had it any political intention or purpose.

That the Hindi Agitation Movement was an illegal one is emphatically denied on behalf of the respondent No. 1. The allegation that this movement was started by Prof. Sher Singh and his party, as he was not taken in the ministry has not been established at all. As already shown, the movement was started by the Hindi Raksha Samiti of Punjab and later on it was continued by Sarva Deshik Bhasha Swatantrya Samiti. There is no evidence worth the name to prove that this movement was started with the purpose of exploiting the feelings of the electors in the constituency for the promotion of the prospects of the respondent No. 1 in the general election to be held in 1962. This movement was admittedly started some time earlier and took the form of Satyagrah in the middle of 1957, just after the general election of 1957 had come to an end. It is difficult to believe that within a couple of months of the previous general election any person or any organisation would start a movement of such a character just in order to further his or their cause in the next election which was to take place five years afterwards. In any case, there is no satisfactory evidence on the record to establish that this movement was started

by the first respondent or those mentioned in paragraph 5 of the petition with that end in view. On the contrary, it is fully established that this movement was started in the first instance, by the Hindus of the Punjabi speaking area in Punjab and not by the people living in the Hindi speaking area. It may be that later on when the movement gained strength the Hindi speaking area also joined the movement.

In my opinion, the petitioner has failed to prove the allegations which cover issues Nos. 6 and 7. These issues are, therefore, decided against the petitioner.

#### Issues Nos. 8 and 9.

These two issues may be taken up together. According to the petitioner, Vijay Diwas (Victory Day) was organised by the persons mentioned in paragraph 5 of the petition on the 1st of January, 1958 in Chhotu Ram Park, Rohtak, just after the termination of the Hindi agitation and on and from that date respondent No. 1 began to hold himself out as a prospective candidate for the election of 1962 to the House of People from the Jhajjar Parliamentary Constituency. It is also alleged by him that Acharya Bhagwan Deva introduced respondent No. 1 to the audience as a prospective candidate from that constituency to oppose the petitioner. It is also alleged, that respondent No. 1 declared that if he had the support of the Hindi Satyagrahis he could defeat the petitioner in the next general election of 1962.

All these allegations are emphatically denied by respondent No. 1. The fact that a meeting was held on the aforesaid date is admitted. But it is denied that he held himself out as a prospective candidate in that meeting for the next general election from Jhajjar Parliamentary Constituency. It is further stated that there was no talk in that meeting about the next general election at all.

The first witness produced on behalf of the petitioner in support of his allegation is Shri Gobind Ram (P.W. 17) who was posted at Hissar in 1957 as a head constable and was working there as a Stenographer. According to him he was deputed to cover the proceedings of the meeting which took place at Rohtak on 1st January, 1958. Even after refreshing his memory he has not supported the petitioner's allegations that Shri Sidhanti declared in that meeting that he would seek election from Jhajjar Parliamentary Constituency in the next general election of 1962 or that Acharya Bhagwan Deva introduced Shri Sidhanti as a prospective candidate against the petitioner from Jhajjar Parliamentary Constituency in the next general election.

Acharya Harish Chandara (P.W. 21), who is at present Up Pradhan, Gurukul, Bhainswal Kalan, district Rohtak has stated in his evidence that he attended the Vijay Diwas meeting on 1st January, 1958 at Chhotu Ram Park, Rohtak. According to him Shri Sidhanti announced in the meeting that at the instance of his leaders he was proposing to seek election from Jhajjar Parliamentary Constituency in order to: "Pratap Singh Daulta Ka hulia biggar dene ke liye". He has further stated that the persons other than Shri Sidhanti who referred in their speeches to the next election were Acharya Bhagwan Deva and Pt. Budh Deva.

It is significant that this witness has not supported the allegation of the petitioner that Acharya Bhagwan Deva introduced Shri Sidhanti as a prospective candidate who was going to oppose Shri Daulta in the next general election. Ch. Maru Singh is the President of Gurukul Bhainswal Kalan with which the witness is closely associated for more than thirty years. Ch. Maru Singh is a Congressman and he had sought election for the local Vidhan Sabha on the Congress ticket in the general election of 1962 from Sampla Constituency where he was opposed by Ch. Ram Swarup of Harijan Lok Samiti. Ch. Maru Singh has appeared as a witness on behalf of the petitioner. This witness further stated that he mentioned the fact of Shri Sidhanti's desire to seek election to Ch. Maru Singh. But Ch. Maru Singh does not corroborate him. His statement is that the report of the meeting that took place on the 1st January, 1958 at Rohtak was given to him by Shri Dharam Bhanu.

The suggestion that Acharya Harish Chandra has come to depose against the respondent No. 1 due to the influence of Ch. Maru Singh who appears to be friendly to the petitioner as both of them had the common bond of being Congressmen, is not without foundation and is quite probable. As he cannot be considered to be an independent witness it will not be safe to rely upon his evidence.

The next witness is Shri Dharam Bhanu, the Secretary and the Manager of the Arya Samaj, Gurukul Bhainswal. According to him, he attended the Vijay Diwas

meeting on 1st January, 1958 at Rohtak. He has stated that in that meeting Acharya Bhagwan Deva said that:

"Shri Daulta Ka hulia to bigra hua hai baqaiya dusre election men bilkul kharab ho jawega".

He does not support the allegation of the petitioner that Acharya Bhagwan Deva introduced respondent No. 1 as a candidate against the petitioner in the next general election. Regarding the other allegation that Shri Sidhanti declared himself as a candidate for the next general election, the only thing the witness attributed to Shri Sidhanti is that he said that if he had the support of friends and people he would be in a position to defeat Shri Daulta. He has also stated in his examination-in-chief that during the days of his imprisonment in jail there was a talk between Pt. Budh Deva and Shri Sidhanti, about Shri Sidhanti seeking election and this fact was also mentioned in the meetings of Satyagrahis in jail which used to take place regularly. In his cross-examination, at first, he denied that he had made this statement. But later on he again said that he had heard with his own ears, while in jail, Shri Sidhanti expressing his intention to seek election. He, however, admitted that he could give neither the date nor the time when he had heard Shri Sidhanti expressing that intention. It is noticeable that he remembers the details of the 'Vijay Diwas meeting' in full though he admitted that he had taken no notes of the proceedings of that meeting, yet he does not remember the number of meetings or dates or time when Shri Sidhanti expressed in the jail his desire to seek election. I think this witness too has come to give evidence due to the influence of Ch. Maru Singh, who is the President of Gurukul Bhainswal of which the witness is the Secretary. His evidence is also not worthy of credence.

The next witness is Shri Ude Singh Mann (P.W. 30) who was a member of the Local Legislative Council from 1952 to 1962 and as a sympathiser of the Hindi Agitation Movement was put in detention by the State Government. According to him he had attended the Vijay Diwas meeting at Rohtak on 1st January, 1958. He has stated in his evidence:

"The fact that Shri Sidhanti intended to contest the election for a seat became obvious in the meeting which was convened of celebrate 'Vijay Diwas' at Rohtak in January, 1958."

According to this witness there was a general opinion expressed in the meeting that in the next election of 1962 people should support those persons only who were lovers and supporters of Hindi. This view was expressed by Pt. Budh Deva and supported by Acharya Bhagwan Deva and Shri Sidhanti. So far as Shri Sidhanti is concerned, he is alleged to have stated that if the leaders of his group wanted him to seek election he will do so provided he had the support of the people present in that meeting and gave an indication that he would seek election from that very constituency which was represented at that time by Mr. Daulta. In cross-examination this witness admitted that he had attended a number of meetings of different types held on different occasions as he was a member of the Legislative Council but he could not, however, recollect either the dates or the time or the places where those meetings were held. It is significant that while he does not remember the proceedings of any other meeting, he remembers the proceedings of the Vijay Diwas meeting held on 1st January, 1958 at Rohtak in all its details. He admitted that he had given the details of the aforesaid meeting from memory. When he gave no particular reason why he remembered the details of this particular meeting, the question naturally arises whether reliance can be placed on the evidence of such a witness. It is extremely doubtful that he could remember so about the meeting so long after it had taken place. In the circumstances, I think no reliance can be placed on his testimony.

The only other witness on the point is the petitioner himself. The petitioner has stated in his evidence that he watched the proceedings of the Vijay Diwas meeting at Rohtak from a short distance. He has nowhere stated in definite words that Acharya Bhagwan Deva introduced Shri Sidhanti as a prospective candidate against him in the next general election. What he said in his examination-in-chief regarding the speech of Acharya Bhagwan Deva was that he said that:

"The persons who set aight the Awami leader in jail, he will also defeat him in the next general election of 1962."

This could not possibly have any reference to Shri Sidhanti, as it is admitted that Shri Sidhanti had no hand in it when the petitioner was manhandled in jail. Regarding Shri Sidhanti's declaration that he would be a candidate for the next general election he has said only this much that Shri Sidhanti said that if the leaders

wanted him to contest Shri Daula in the next general election he would obey their command. He is a highly interested witness and no reliance can be placed on his testimony.

This is the entire evidence on these issues on behalf of the petitioner.

On the other hand, the witnesses examined on behalf of the returned candidate are. Shri Ghansham Singh Gupta (R.W. 2), Mahashe Bharat Singh (R.W. 12), Ch. Badlu Ram (R.W. 14), Pt. Budh Deva (R.W. 18), Prof. Sher Singh (R.W. 19), Acharya Bhagwan Deva (R.W. 20) and Shri Sidhanti, the respondent No. 1 (R.W. 21).

All the above witnesses have, with one voice, denied the allegations of the petitioner that Shri Sidhanti was introduced in the Vijay Diwas meeting as a prospective candidate against the petitioner from Jhajjar Parliamentary Constituency in the next general election of 1962, or that Shri Sidhanti declared his intention of standing as such. They have all stated that there could be no question of any discussion regarding the next general election at that time, as the last general election had terminated only about a year back.

According to Shri Ghansham Singh Gupta (R.W. 2), the Vijay Diwas meeting had no connection with politics or any political movement. So far as he remembered there was no reference at that meeting to any elections. Mahashe Bharat Singh who was the stage Secretary of that meeting has stated in unequivocal language that Shri Sidhanti did not declare himself as a candidate for the next general elections. He has also said that there was no question of any reference to election in that meeting as that meeting was convened to consider and discuss ways and means to get the remaining demands of the Hindi Raksha Samiti fulfilled, as by that time only a partial success had been achieved in that respect. It is not necessary to quote from the evidence of all these witnesses. It is enough to say that they have categorically denied the allegations made by the petitioner and nothing has been elicited in their cross-examination to show that they were not telling the truth on this point.

Shri Sidhanti respondent No. 1, (R.W.21) has stated that he neither mentioned anything about the election nor announced his candidature at that meeting. According to him, in that meeting nobody mentioned the election at all. Much capital has been made by the petitioner to the admission of Pt. Budh Deva (R.W. 18) that he had asked the people to set up only those candidates in the next election who may ventilate their views and press for their cause. But in the very next breath he further stated that nobody in the meeting gave any indication or showed any inclination to seek election in the next general election or to support the candidature of any individual. This was a casual and general remark.

It has to be borne in mind that this witness was opposed to Satyagrah movement, but, as a matter of discipline, he had also courted arrest. Now that the movement had been partially successful, he wanted that the remaining grievances should also be tried to be redressed by adopting constitutional methods.

Acharya Bhagwan Deva (R.W. 20), who is alleged by some of the petitioner's witnesses to have referred to the next general election, has denied that there was any discussion in that meeting regarding the next general election or that he introduced Shri Sidhanti as a prospective candidate from Jhajjar Parliamentary Constituency to oppose the petitioner.

There is thus no evidence worth the name produced on behalf of the petitioner to establish the allegations, that Acharya Bhagwan Deva introduced Shri Sidhanti as a prospective candidate to oppose Shri Daula in the next general election from Jhajjar Parliamentary Constituency or that the respondent No. 1 in his speech in that meeting declared that he could defeat the petitioner with the help of Arya Hindi Satyagrahis, if they worked for three years to come.

None of the petitioner's witnesses has stated that any appeal was made by Shri Sidhanti for the help of 'Hindi Satyagrahis'. Even according to their evidence an appeal, if any, was made to all the people assembled in that meeting which was not confined to Hindi Satyagrahis alone.

I, accordingly, hold that none of the allegations covered by issues nos. 8 and 9 have been proved. These issues are, therefore, decided against the petitioner. Issues Nos. 10, 12 and 13.

These three issues are inter connected and can conveniently be taken up together.

The allegation on behalf of the petitioner is that the respondent no. 1 and his agents mentioned in paragraph 5 of the petition continued to hold small and big meetings in Jhajjar Parliamentary and other Punjab Assembly Constituencies of the Hindi speaking area and in those meetings they systematically appealed to the electorate to vote for the respondent no. 1 and the other candidates on the ground of language and religion. They also systematically used the religious symbol of 'Om Dhwaj' in all those meetings. It is also alleged that in those meetings respondent no. 1 and his agents also made a systematic appeal to the electorate to refrain from voting for the petitioner on the ground of his being an enemy of the Arya Samaj and the Hindi language. The first instance of such a meeting given by the petitioner is the one that took place in village Bahu Akbarpur, district Rohtak on 4th February, 1958. According to him, this meeting was convened and organised by all the persons mentioned in paragraph 5 of the petition. In this meeting they exhorted the audience to punish the petitioner along with Ch. Ranbir Singh, then M.P. (now a Minister of the State of Punjab) and Ch. Ram Singh, then D.I.G. Ambala range and ultimately got all the three ex-communicated from religious and social biradari of Hariana, on the ground, that the petitioner along with the other two persons mentioned above were enemies of the Arya Samaj and they had opposed the Hindi agitation.

The petitioner, in support of his aforesaid allegations, has examined Ch. Chhotu Ram (P.W. 1), Shri Raghbir Singh (P.W. 7), Shri Ram Nath Sapra (P.W. 12) Shri Khazan Singh (P.W. 18) and Acharya Harish Chandra (P.W. 21).

Shri Chhotu Ram (P.W. 1) is the editor, printer and publisher of Jat Gazette which is published from Rohtak. According to his deposition he had attended the meeting at Bahu Akbarpur in which a resolution was passed in his presence boycotting Shri Daulta, Ch. Ranbir Singh and Ch. Ram Singh. After return from the meeting he wrote out the article giving the proceedings of that meeting which is published in the Jat Gazette, dated the 12th February, 1958. He admitted in his cross-examination that he used to report in his paper the activities of Shri Daulta in the Parliament session in New Delhi and occasionally items of activities of Shri Daulta in the Parliament session were reproduced word for word of the English report into Urdu. He admitted that these proceedings were received by him from the office of Shri Daulta. He further admitted, after seeing the article referred to above, that there was no specific mention of any resolution being passed in that meeting. It stands to reason that if he had attended the meeting, and, as he says, gave the report of the proceedings of that meeting in the issue of Jat Gazette dated 12th February, 1958 then this fact would have found place in that article. This omission makes his evidence very doubtful and it cannot be relied upon. It is true that in his oral statement he has made a definite statement that an ex-communication resolution was passed in that meeting in respect of the petitioner, Ch. Ram Singh and Ch. Ranbir Singh but when his evidence, as a whole, is not reliable on its basis it will not be safe to hold that such a resolution was, in fact, passed which is admittedly not in writing.

The next witness is Shri Raghbir Singh (P.W. 7). He is one of the partners of Samrath Press, Delhi. He had presided over the aforesaid meeting at Bahu Akbarpur. He has stated that this meeting was convened on behalf of Sarva Khap Panchayat which was in organisation of a purely social character and was not connected with politics in any form of shape. This fact is admitted now, though in the petition itself it is alleged that this meeting was convened by respondent no. 1 and others mentioned in paragraph 5 of the petition. He also denied that any resolution was passed in the aforesaid meeting ex-communicating Shri Daulata, Ch. Ram Singh and Ch. Ranbir Singh. He further stated that there were no Om flags nor posters or placards bearing the tenets or teachings of the Arya Samaj were displayed in that meeting. He also denied that any provocative speech was made against Shri Daulta in that meeting. He denied all the other allegations made in paragraph 8 of the petition. The only thing said against this witness is that along with him respondent no. 1 is also a partner in the Samrath Press, Delhi. But that is, in no way, sufficient for rejecting his testimony.

The next witness is Shri Ram Nath Sapra. He is a correspondent of the Daily Tribune, Hindustan Times, Times of India Pratap and Milan, with his headquarters at Rohtak. According to his evidence he covered the proceedings of the meeting at Bahu Akbarpur in the first week of February, 1958. He had gone to that meeting along with the editor of Jat Gazette, Rohtak. He also does not support the petitioner's allegations that his meeting was called by respondent no. 1 and the others mentioned in paragraph 5 of the petition. According to him

It was convened by the Hindi Raksha Samiti. He does state that a resolution by show of hands was passed ex-communicating the petitioner, Ch. Ram Singh and Ch. Ranbir Singh as they had not behaved properly during the Hindi Agitation Movement. He also stated that he had sent the report of the proceedings of the meeting to all the aforesaid papers. He has admitted that he was not in a position to say the contents of his reports which were published in the newspapers, but if he looked into the issue of Daily Pratap dated February 7, 1958 he would be able to give the contents of his report. At his request he was allowed to refresh his memory by looking into the aforesaid issue, but the question whether that could be legally done was not finally decided. After refreshing his memory he stated that some of the broad features of his report were that Shri Sindhanti appealed to the audience that Shri Daulta, Ch. Ram Singh and Ch. Ranbir Singh be ex-communicated as punishment of their hostile attitude towards the Hindi Agitation Movement. He further stated that the meeting was attended by a number of persons including those mentioned in paragraph 5 of the petition, except Shri Piare Lal. He also said that a resolution ex-communicating the aforesaid three persons was passed by the people present there by show of hands. He has not mentioned about the use of 'OM flag' or about the display of other teachings or tenets of the Arya Samaj in the aforesaid meeting. In his cross-examination he admitted that so far as he could recollect, the resolution for ex-communication was not moved by Shri Sindhanti.

The question that arises for consideration is whether his evidence can be relied upon. He has admitted that he could not give the details of the proceedings of the meeting at Bahu Akbarpur without referring to the issue of Pratap dated 7th February, 1958 in which his report, according to him, was published. It is argued on behalf of the respondent no. 1 that the evidence given on the basis of looking into the issue of 7th February, 1958 could not be legally admissible. It is urged that the witness could only refresh his memory by reference to the notes taken by him in that meeting or the original report sent by him to the Daily Pratap on the basis of those notes. Neither of the two documents has been produced before this Tribunal. Evidence has not been given by this witness after refreshing his memory from those documents. Under section 159 of the Indian Evidence Act, memory can be refreshed only by referring to a writing made by the witness himself at the time of the transaction or so soon afterwards that it is likely that the transaction was at that time fresh in his memory. If the documents is not one written by the witness himself it must be one written by some other person, provided, it had been read by the witness within a time which makes it likely that the transaction was fresh in his memory. The issue of the Pratap from which the witness refreshed his memory cannot be said to be a 'document' contemplated by section 159. It is not a document written by the witness or any one else. It cannot be treated even as a reliable copy of such a document. Even if it is a correct copy, the section does not provide refreshing memory by referring to a copy. In these circumstances, his evidence cannot be given any value.

Shri Khazan Singh (P.W. 18) is a head constable. He had gone to the meeting at Bahu Akbarpur on the 4th February, 1958 in order to take notes of the proceedings of that meeting. According to his deposition those who spoke in the meeting were Ch. Dharam Singh Rathi, Prof. Sher Singh and Shri Sindhanti. According to him Shri Sindhanti in his speech said that the three persons, Ch. Ranbir Singh Ch. Ram Singh and Shri Daulta were traitors as they opposed the Hindi Satyagrahis and, therefore, they should be ex-communicated. He further told the audience that they should take revenge in the coming election and the results of the election would show who were the traitors and who were the helpers of Hindi. According to him prof. Sher Singh also supported the resolution of Shri Rathi for ex-communicating the aforesaid three persons. Further, while giving the details of the meeting held at Bohar on the 2nd and 3rd December, 1961, he stated as follows:

"I cannot tell from memory what other meetings I attended in the month of December, 1961. During the period "December, 1961 and February, 1962 I attended only two meetings and for the others I cannot say from my memory which meetings I attended during those period and by which party they were convened. This is a matter of record which is not with me here. I have already answered that I do not remember the particulars of other meetings".

He did not remember the details of the meetings at Bahu Akbarpur and Bohar also He admitted that he was giving details about those meetings because he

had looked through his reports after he had received the summons for appearing before this Tribunal to give evidence. It is manifest from his statement that he could not have given the details of the aforesaid meeting at Bahu Akbarpur unless he had looked into his report. That report could not be looked into as he had not refreshed his memory while 'under examination' but at home and no one knows what its contents were. The question arises what value can be attached to the evidence of this witness.

In refreshing his memory at home by referring to a document which neither the Tribunal nor the respondent had an opportunity of examining and about the nature and contents of which nothing is known, the witness has really flouted the purpose for which legislature provided in section 159 of the Indian Evidence Act, that if memory could be refreshed at all it could only be refreshed before the Court and by reference to a document of a specific nature. The document not being available to the respondent no. 1 he was deprived of an effective opportunity of testing the averment of the witness that the document he claims to have consulted really contained what he said it contained. In all the circumstances, his entire evidence loses all its worth. Acharya Harish Chandra (P.W. 21), whose evidence I have already discussed while dealing with issues nos. 8 and 9, has stated that he attended the meeting of Bahu Akbarpur and in that meeting Shri Sirdhanti supported the resolution for ex-communication of Shri Daulta, Ch. Ranbir Singh and Ch. Ram Singh. In his cross-examination he admitted that he was not sitting under the pandal but was watching the proceedings by standing under a tree on the road. The tree under which he was standing and watching the proceedings was about two hundred yards away from the dias. It is difficult to believe that he could hear the speeches made by different persons from such a long distance with such effectiveness that he could remember them after four years. He is a witness partial to the petitioner and had come to depose for him under the influence of Ch. Maru Singh, who is the President of the Gurukul Bhanswali and under whom the deponent worked as Acharya of that institution on a monthly salary of rupees one hundred and now he is the Up Pradhan of that institution. Ch. Maru Singh, as already stated, had contested a seat for the Local Vidhan Sabha on the Congress ticket in the last general election in which he was opposed by a candidate of the Haryana Lok Samiti. His natural inclinations are, therefore, towards the petitioner, who was a congress candidate during the last general election.

In the written statement it is admitted that a meeting was, in fact, held on the 4th February, 1958 in village Bahu Akbarpur of a social body known as Sarva Khap Panchayat and the proceedings in that meeting had nothing to do with the elections. It is further stated that atrocities were committed in village Bahu Akbarpur without any discrimination, upon women, men and children and those who were responsible for it were condemned in that meeting. It is denied that any appeal was made to ex-communicate the petitioner, Ch. Ranbir Singh and Ch. Ram Singh in that meeting. The allegations as regards the contents of the speeches made at that meeting are also denied.

In support of this averment, respondent No. 1 has examined Mahashe Bharat Singh, Ch. Badlu Ram, Pt. Budh Deva and himself. All of them have stated that there were no 'Om Slabs' or teachings or mottoes of Arya Samaj anywhere in that meeting. They have also stated that the meeting was convened by the Sarva Khap Panchayat of the village and was confined to social reforms only. They have also, with one voice, denied that either any resolution was moved or passed ex-communicating the petitioner, Ch. Ranbir Singh and Ch. Ram Singh in that meeting. They have also stated in their evidence that the allegation that oath was administered to the audience to defeat Ch. Ranbir Singh and Shri Daulta in the next general election for the Parliament was wholly wrong.

Pt. Budh Deva stated that it was wholly incorrect that he had asked the people present there to take oath that they will not support the candidature of Ch. Ranbir Singh and Shri Daulta in the next general election for Parliament. Ch. Ranbir Singh (P.W. 24), who is a Minister of this State, in reply to a question by the cross-examining counsel whether he has been ex-communicated replied:—

"who are they to ex-communicate me".

A perusal of the evidence mentioned above clearly shows that the allegation of the petitioner that the meeting at Bahu Akbarpur was convened by respondent no. 1 and his agents who are confined to the persons mentioned in paragraph 5 of the petition, is not borne out by the evidence produced on his behalf. As ■

matter of fact, it is fully established that it was convened by the Sarva Khap Panchayat of that village. The other allegations also remain unsubstantiated. In my opinion, the version given by respondent no. 1, which is supported by trustworthy evidence, has to be accepted. I may add that the allegations of corrupt practices alleged to have been committed at Bahu Akbarpur meeting on the 4th February, 1958 have not been proved at all. Even assuming, that they are proved which they are not they are far too remote from the next general election to be taken into consideration.

I, accordingly, decide all these three issues against the petitioner.

**Issue No. 17, 18 and 19.**

These issues relate to the meeting held on the 2nd and 3rd December, 1961 at Bohar and may be taken up together.

According to the allegations made in paragraphs 10 and 11 of the petition the respondent no. 1 and his agents inaugurated their regular election campaign in a big way on the 2nd and 3rd December, 1961 at village Bohar by organising the fourth session of the Hindi Maha Sammellan and in that meeting they made a systematic appeal to the audience to vote for the respondent no. 1 and refrain from voting for the petitioner on the ground of religion and language. They also promoted feelings of enmity and hatred between the Sikhs and the Hindus of Punjab and also brought undue influence to bear upon the electors by inducing them to believe that anybody not voting for the respondent no. 1 and voting for the petitioner will become an object of divine displeasure and spiritual censure.

The fact that a meeting was held at Bohar on the 2nd and 3rd December, 1961 is admitted by the respondent no. 1 in his written statement. It is, however, stated that on the first day the proceedings were entirely religious. The political function commenced only after the lunch interval on the second day. The two proceedings were quite distinct. It is denied that a Sammellan was held to inaugurate a regular election campaign, but it is admitted that the occasion was utilised by the Harijan Lok Samiti to hold a political session in the afternoon of 3rd December, 1961 in connection with their election campaign. It is admitted that the meeting was arranged by the Veda Prachar Mandal, Pakasma circle and that the facts and circumstances of the language movement and the grievance of the Harijan people on the language question were referred to. It is denied that any reference was made to the impending election on the 2nd December, 1961. It is denied that respondent no. 1 who attended the meeting made an appeal to the people to vote for the Harijan Lok Samiti or that he spoke the words attributed to him in Schedule 'C'. It is also admitted that Man Patras were distributed to the persons who had taken part in the language movement and the meeting supported the language policy of the Arya Sammellan held in Delhi on 21st May, 1961. It is further admitted that three resolutions were adopted, as mentioned by the petitioner. But it is denied that the session ended with any religious ceremony conducted by Pt. Budh Deva or by administering oath to the audience to vote for the candidates of the Harijan Lok Samiti. It is denied that Pt. Budh Deva warned the people that he was 'Brahm' and that any person violating the pledge given to a 'Brahm' would go to hell.

In support of his allegations the petitioner has examined Shri Tara Chand (P.W. 8), Shri Khazan Singh (P.W. 18), Acharya Harish Chandra (P.W. 21) and Pt. Ram Chandra Sharma (P.W. 5).

I have already rejected the testimony of Shri Khazan Singh while dealing with it in connection with the meeting at Bahu Akbarpur on the 4th February, 1958. For the same reasons his evidence cannot be accepted so far as the meeting at Bohar also is concerned.

Tara Chand is one of the zamindars of village Bhalaut. He had also courted arrest in connection with the Hindi Agitation Movement. According to his deposition that he attended the meeting at Bohar by reading a poster which was issued by the Veda Prachar Mandal, Pakasma and which is annexure 'B' to the petition. According to him there was a procession on the 1st December, 1961, which was arranged by the Veda Prachar Mandal, Pakasma and thereafter there were two meetings: one on the 2nd December and the other on the 3rd December, 1961. He has stated that the meeting was preceded by 'Havan' and was presided over by Shri Santosh Nand. The first person to address the meeting was Acharya Bhagwan Deva. During the course of his speech he referred to the Hindi Agitation Movement and the sacrifices made in the cause of it. He also

asked the people that in the next general election they should cast their votes after due deliberations. He also referred to the ex-communication of Shri Daulat and others in Bahu Akbarpur meeting. Prof. Sher Singh criticised the Government in regard to its policy towards the Hindi language. Shri Sidhanti, while addressing the meeting said that Hindi was not only the national language but it was, so far as he was concerned, his Dharam that he will offer his protection to it even by sacrificing his head and that the Harijan Lok Samiti was formed in accordance with Chapter 6 of the Satyarthi Prakash. The others who spoke in the meeting included Ch. Badlu Ram, who appealed to the audience to vote for the Harijan Lok Samiti in the next general election and suggested that if people took care in casting their votes their past sacrifices will have ample reward. On the 3rd day i.e. 3rd December, 1961, the proceedings continued in the same Pandal and after Havan and Veda Katha the political session of the meeting started which was presided over by Prof. Sher Singh. In this political session those who spoke, according to his deposition, were Prof. Ram Singh of Hindu Sabha, Ch. Ram Swarup, Ch. Badlu Ram, Prof. Sher Singh, Mahashe Bhauat Singh and Shri Sidhanti. Prof. Sher Singh is alleged to have complained of discriminatory treatment meted out to Harijan. He is also alleged to have said that if the audience wanted that they should have equal status and rank, then they should vote for the candidates set up by the Harijan Lok Samiti. Thereafter Shri Sidhanti spoke. After describing the features of the Harijan Lok Samiti he is alleged to have said:

“If the people wanted to protect the cow, Hindi and Brahmin, they should vote only for the candidates set up by the Harijan Lok Samiti”.

According to this witness both the meetings of 2nd and 3rd December, 1961 devoted the first half of every day to religious discourses and the second half to political session. It also appears from his evidence that there was a procession on the 1st December, 1961. He has given this evidence from memory as he had taken no notes in respect of what has taken place. He further stated that on 2nd December, 1961 there was a Hindi Samellan and the Political session started on the 3rd December, 1961 after Havan and Veda Katha were performed earlier. It is significant that though he has stated in his evidence that the sacrifices made by people in the Hindi Agitation Movement were pointedly mentioned and Arya Samaj was extolled, he had not referred anywhere that there were any slogans raised in favour of Arya Samaj or that there were Om flags or placards containing teachings and mottoes of Arya Samaj anywhere in the pandal.

The next witness is Acharya Harish Chandra (P.W. 21). According to him three resolutions were passed in the meeting on 2nd December, 1961 at Bohar. They were:

- (1) That Arya Samaj had fought for the cause of Hindi and in the General election it will fight the Congress candidates for the cause of Hindi.
- (2) That an appeal was made to Local Government not to force Punjabi on the people of Harijan region, and
- (3) That the policy laid in the meeting of Aryan International League on 31st May, 1961 should be followed by the people present.

So far as the proceedings of the 3rd December are concerned, according to him, one of the matters discussed in that meeting was that Shri Daulat was opposed to Hindi Agitation Movement and therefore, he should be opposed in the next general election and all support should be given to Shri Sidhanti who was a candidate for the parliamentary seat from Jhajjar Constituency. It is significant that in his evidence he has not stated anything which would go to show that any appeal for votes for respondent no. 1 in the next general election was made on the ground of religion or language. He also admitted in cross-examination that there was a political session on 3rd December, 1961. He has not mentioned that there was any procession organised and taken out on the 1st day, as stated by Shri Tara Chand (P.W. 8). He also does not say that there were any Om flags or placards displaying the teachings and tenets of Arya Samaj. He has also not said anywhere in his evidence that any oath was given by Pt. Budh Deva, as alleged on behalf of the petitioner.

The last witness on behalf of the petitioner is Shri Ram Chandra Sharma (P.W. 5), the editor, Printer and the publisher of the paper known as 'Harijan Lok Tilak' which is printed and published from Rohtak. According to his deposition he attended the meeting at Rohtak on 1st December. Admittedly there was no meeting at Rohtak but it was at Bohar. The meeting lasted for two

days i.e. 1st and 2nd December, 1961. He also said that the proceedings of these meetings were covered by him. He added that on the 1st there was a procession which started from the railway station and terminated at Sonepat Bus Station. He covered the procession also from the start to the finish. The procession consisted of thousands of people who had Om flags in their hands. It is said that they were shouting slogans like

"Hindi Bhasha Amar Rahe,  
Hariana Raksha Samiti Ki Jai ho."

He also said that in that procession there were leaders of Arya Samaj also, viz. Prof. Sher Singh, Shri Sidhanti, Mahashe Bharat Singh, Ch. Badlu Ram, Pt. Budh Deva, Acharya Bhagwan Deva and others. He further said that the proceedings of the meeting started with a song by Shri Piare Lal which was in the honour of Om flag. He also said that he attended the proceedings of the meeting from the beginning to the end on both days. On the first day all the persons mentioned above delivered speeches and on the second day of the meeting persons other than those mentioned above also spoke. They included Prof. Ram Singh, Ch. Ram Swarup and Ch. Ram Bhaj. The topics that were discussed in those meetings on both days were that the entire administration set up in Punjab was dominated by the Sikhs and this situation can be retrieved only if people voted for the candidates set up by the Hariana Lok Samiti. On the second day Pt. Budh Deva asked people to take oath that they will support only the candidates set up by the Hariana Lok Samiti. After return from the meeting he gave a resume of both the meetings of 1st and 2nd December, 1961 in his paper.

The respondent no. 1 has examined Mahashe Bharat Singh (R.W. 12), Ch. Badlu Ram (R.W. 14), Pt. Budh Deva (R.W. 18), Prof. Sher Singh (R.W. 19), Acharya Bhagwan Deva (R.W. 20) and himself (R.W. 21), in support of his case on this point. According to Shri Sidhanti the session lasted for two days only. There were neither any proceedings of the session nor procession was taken out on the 1st December, 1961. As a matter of fact nothing took place on the 1st December, 1961. He has further stated that on the 2nd December, 1961 there was a procession in the morning and thereafter the meeting startd at noon. The fact that three resolutions were passed on the 2nd December is admitted by respondent no. 1. But he as well as others have repudiated the version of the speech given in Schedule 'C' of the petition alleged to have been made by Shri Sidhanti at a meeting held on 2nd December, 1961. According to Shri Sidhanti what he said was that he resented the forcible imposition of Gurumukhi in Hariana region. He never mentioned the general election nor did he ask support for any candidate set up by the Hariana Lok Samiti. He also did not refer to Om flag at all during the course of his speech. He further stated that none of the speakers referred to election in the meeting of 2-12-61. He also stated that it was totally wrong that either on the 2nd or on the 3rd December, 1961 Pt. Budh Deva gave 'Ashirbad' after administering oath to the audience to vote for the Samiti candidate and threatened that if they violated their pledges they will go to hell. He also stated that on the 3rd December, after lunch the political session of the Sammellan started. This Session was presided over by Prof. Sher Singh and neither any Om flag was used nor any slogans were raised in that meeting. In this meeting his speech was confined only to the inequity of the legislation giving share to the daughters in father's property. He also said that Pt. Budh Deva spoke in favour of the resolution to make a representation to Das Commission and said nothing else. Even on the 3rd December, according to him, there was no reference in his speech to the general elections as till then the selection of candidates had not been finalised for the coming election by the Hariana Lok Samiti. That was done only on the 7th December, 1961 in the night. He also denied that anybody referred to the Om flag being hoisted all over India or that any reference was made to 'Satyarth Prakash'.

He also said that the meeting of 2nd and 3rd December, 1961 at Bolhar was convened by the Veda Prachar Mandal and Hindi Raksha Samiti. He had nothing to do wih the convening of the aforesaid meeting. Arya Samaj also had no direct connection in the convening of that meeting. He further stated that the meeting was attended not only by the Arya Samajists but also by the people of other faith and tenets. He also spoke, as others did, on the three resolutions that were passed in the meeting, viz.

- (1) That struggle for Hindi language would continue until all the demands were conceded.

(2) Imposition of compulsory teaching of Gurmukhi in Haryana region should be opposed.

(3) The resolution passed by the International Aryan League at Delhi be ratified.

There was in the afternoon another meeting of the Haryana Lok Samiti in connection with the election campaign at a different place after 3-30 P.M.

Ch. Badlu Ram (R.W. 14) stated that though he was present in the Bohar meeting on the 2nd and 3rd December, 1961, he did not make any speech. He also said that in his presence no appeal was made for votes for the Samiti candidates; nor did anybody state that the Om flag of the Arya Samaj will not only be hoisted at the Chandigarh Secretariat and the buildings of Delhi but all over the world. This witness has been a member of the Local Assembly from 1948 to 1957. He had been a member of the District Board and the Pradhan and Chairman, Sugar Mills, Rohtak. He had also been the Managing Director of Rohtak-Haryana Transport Company and was once the Chairman of the Gandhi National Memorial Fund. From 1936 to 1947 he was a member of the Suba Congress Committee, Punjab.

Pt. Budh Deva (R.W. 18), who is at present the Vice Chancellor of Gurukul Kangri University and the President of Arya Pratinidhi Sabha, Punjab has stated that it was wholly incorrect that he had asked the people present in the Bohar meeting to take oath that they will not support the candidature of Ch. Ranbir Singh and Shri Daulta in the next general election for the Parliament.

The next witness is Prof. Sher Singh. He was an elected member of the Punjab Legislative Assembly from 1946 to 1962. He was a Minister of the State of Punjab from January, 1956 to April, 1957, and is at present a member of the Local Legislative Council. He stated that he had attended the meetings on the 2nd and 3rd December, 1961 at Bohar. According to him, on the 2nd December, 1961 a meeting of the Hindi Raksha Samellan was held. This fact is admitted by the petitioner's witnesses also. According to him there was a procession also on the 2nd December, 1961 preceding the meeting on the same day. He admitted that he spoke in that meeting, but he did not ask people there to vote for Samiti candidates as by that time no candidate for election was set up or selected by the Samiti. In the meeting of 2nd December, 1961 election was not discussed at all. He did not see any Om flag in the Pandal nor did he see any mottoes of Arya Samaj there. He says that on the 2nd December, 1961 resolutions were passed as deposed earlier by the witnesses, both for the petitioner and the respondent No. 1. In the political session of the 3rd December also some resolutions were passed. The purports of the speeches made there were, for;

1. Presenting memorandum to Dass Commission.
2. Securing legitimate rights of Haryana people in all spheres of Governmental activities.
3. Amending the Hindu Succession Act giving rights to daughters in their fathers' property.

He has further stated that no other matter was discussed in that meeting except that some resolutions were passed regarding the above mentioned matters. After conclusion of this meeting, there was another meeting held at the residence of Shri Mauji Ram of Village Bohar and that meeting was of the Haryana Lok Samiti. According to him no oath was administered by anybody to any one of the audience on the 2nd day of the session i.e. 3rd December, 1961. On the second day also there were neither any mottoes nor any Om flags in the Pandal.

Acharya Bhagwan Deva (R.W. 20) is the Principal as well as the Governor of Gurukul, Jhajjar. He also corroborated the earlier witness produced on behalf of respondent No. 1 that neither there were any teachings nor mottoes displayed in the Pandal. There was no Om flag on either of the two dates i.e. 2nd and 3rd December, 1961. He also denied the alleged version of his speech given on behalf of the petitioner. According to him his speech was confined only to this that a memorandum should be sent to Dass Commission asking them to go into the question of discrimination shown against the Haryana region. He also said that nothing was said in either of the two meetings which could tend to create hatred between the Hindus and the Sikhs.

I have already given reasons for rejecting the evidence of Shri Khazan Singh while discussing his evidence in respect of an earlier meeting and for the same reasons I reject his testimony in regard to this meeting also. So far as Shri Tara Chand is concerned, his evidence suffers from a number of infirmities; firstly, that he has set up a new case which is admittedly not the case of either party i.e. that there was a procession on the 1st December, 1961 also. According to the admitted facts the session at Bohar was confined only to two days i.e. 2nd and 3rd December, 1961, while according to Tara Chand the session started on the 1st December, 1961. The procession, which according to him was taken out on the 1st December was, according to the evidence of others, taken out on the 2nd December. The second infirmity is that he has given no particular reason for remembering the facts of the meeting, the details of which he gave from memory. He admitted that he could not remember how many meetings he had attended prior to 1957, but he had attended some of them which took place in the vicinity of his village. He appears to be a friend of Shri Samunder Singh who was opposed in the last general election by Ch. Ram Swarup of Haryana Lok Samiti, as he was accompanied by Shri Samunder Singh when he came to give evidence before the Tribunal.

The question is whether the evidence of this witness can be safely relied upon. The discrepancies pointed out above are not minor ones but are major ones. I am not inclined to accept his testimony.

Acharya Harish Chandra's evidence does not support the allegations made against the respondent No. 1 and the other persons mentioned in paragraph 5 of the petition. I have already, while dealing with an earlier issue, not thought it safe to rely upon his testimony. For the same reasons I have no hesitation in rejecting his testimony here also.

The evidence of Pt. Ram Chandra Sharma (P.W. 5) cannot be accepted for reasons more than one. Firstly, according to both the parties the meetings at Bohar had taken place on the 2nd and 3rd December, 1961, while according to this witness the meetings took place on the 1st and 2nd December. This is directly opposed to the admitted facts of the case. He further admitted that he did not remember whether he had covered the proceedings of any other meetings in December, 1961 but he did cover the proceedings of one or two meetings in January, 1962, but he had no recollection of the dates. He further admitted that he attended another meeting in February, 1962 of which also he could not give the date. He also admitted that he attended another meeting in the month of December but he was not in a position either to give the date or the place where the meeting had taken place. The conclusions are obvious. The witness is a thoroughly unreliable witness and his testimony has to be rejected.

The evidence on behalf of the respondent No. 1 is consistent and is worthy of credence and I am of opinion that it can be safely relied upon.

I accordingly hold that none of the allegations which are covered by issues Nos. 17, 18 and 19 has been proved beyond any reasonable doubt. I, accordingly, decide all these issues against the petitioner.

#### Issue No. 11.

This issue is based upon the allegation that on the 30th April, 1961, the persons mentioned in paragraph 5 of the petition organised a political convention in Dayanand Math, Rohtak for the purpose of announcing openly their intention to participate in the coming general election of 1962. The formation of Haryana Lok Samiti was also announced in this convention; the name of Haryana Lok Samiti was meant to be a camouflage for the faction of Arya Samaj organisation dominated by the persons named above and the propaganda and appeal disseminating from the platform of the so-called Haryana Lok Samiti continued to be in the name of Arya Samaj, (a religious organisation) and its flag the 'Om Dhawaj'.

The respondent No. 1 in his written statement admitted that Haryana Lok Samiti came into being in consequence of a political convention held on the 30th April, 1961, in Dayanand Math, Rohtak for the purpose of fighting the election. He denied that the Haryana Lok Samiti was meant to be a camouflage for the Arya Samaj organisation. He further stated that the meeting was attended by representatives of other parties also with a view to devise ways and means of pooling the resources of all the political parties operating in the Haryana area for the protection of special interest of the area without regard to political affiliation.

The first question to be considered is whether this convention at Daya Nand Math, Rohtak on 30th April, 1961, was convened by the seven persons mentioned in paragraph 5 of the petition.

Pt. Budh Deva has stated in his deposition that he was neither present at the foundation meeting nor was he invited to attend it. Shri Piarc Lal had also not attended it. This is clear from the evidence of Pt. Shri Ram Sharma (P.W. 6) who had been a member of the All India Congress Committee for about 15-20 years and was a member of the Punjab Legislative Assembly for about 25 years and also a Minister in the State of Punjab. He stated that the prominent persons who participated in the activities of Haryana Lok Samiti were Prof. Sher Singh, Shri Sidhanti, Acharya Bhagwan Deva, Ch. Badlu Ram and Mahashe Bharat Singh. He has further stated in his evidence that at the time of the formation of the Haryana Lok Samiti he also received an invitation for attending the meeting which purported to come from Prof. Sher Singh. He attended that meeting in response to that invitation. The convention was attended by the aforesaid five persons and others. The others who attended the meeting were communists and one of them was the present petitioner. He stated that people of other parties except the Congress were also represented. He also said that in that meeting the general talk was that since the elections were approaching they should fight the election united together against the Congress. He also attended the second and the third meetings at the same place in those meetings, according to him, the idea was mooted that the Haryana Lok Samiti be formed. His own suggestion was that any Samiti of that type, if it was to be formed, should have representation from all parties except the Congress. In the third meeting, as the witness's point of view was not accepted, he left it. But before he left the meeting, Prof. Sher Singh and others had decided what the name of the organisation would be, but other details were not finalised in his presence.

P.W. 23, Shri Pratap Singh Malik, General Secretary, District Congress Committee, Rohtak, admitted in his evidence that Haryana Lok Samiti is a political organisation and amongst the candidates set up by the Haryana Lok Samiti there were persons also who were not Arya Samajists, but the number of Arya Samajists was about eighty per cent. The petitioner in his evidence has stated that though the Haryana Lok Samiti was professedly a political organisation yet, in fact, it was a part and parcel of the Arya Samaj. Except for the uncorroborated testimony of the petitioner there is no other evidence on the record. Not even his own witnesses have stated that the Haryana Lok Samiti was a part and parcel of the Arya Samaj. His witnesses Shri Shiva Narain Vatas and Shri K. K. Katyal admitted in their cross-examination that Haryana Lok Samiti was a political body. The testimony of the petitioner is that of an interested person and cannot be safely relied upon. On the other hand, Prof. Sher Singh who is the President and Mahashe Bharat Singh who is the General Secretary of the Haryana Lok Samiti have both denied that the Haryana Lok Samiti had anything to do with the Arya Samaj. According to their testimony it was a political organisation formed in order to get the rights of the Haryana region vindicated.

It will be better to give the reasons which necessitated the formation of Haryana Lok Samiti at the meeting of 30th April, 1961, at Dayanand Math, Rohtak, in the words of Prof. Sher Singh himself:-

"That meeting was called for forming a new political party for getting the rights of the people of Haryana in all spheres of governmental activities. This meeting was attended by representatives of all the areas of Haryana of all creeds and castes and all political parties except the Congress. The attendance in that meeting was between 250 to 300. Broadly the aims and objects of this organisation, as enumerated in its constitution, are:-

1. To protect unity, integrity of the country and to work for economic prosperity.
2. To fight against communalism and casteism in all their form and to establish true nationalism.
3. To work for the economic, social and political uplift of the people of Haryana.

He further stated that in the meeting of the 30th April, 1961, no question of election was discussed or mentioned. He further stated that besides himself, of others mentioned in paragraph 5 of the petition present in the meeting were Shri Sidhanti, Ch. Badlu Ram and Mahashe Bharat Singh. He further stated

that Haryana Lok Samiti is an independent body and has nothing to do with Arya Samaj. According to him Haryana Lok Samiti is a purely political organisation. Mahash Bharat Singh (R.W. 12), Ch Badlu Ram (R.W. 14) and Shri Sidhanti (R.W. 21) have fully corroborated the testimony of Prof Sher Singh (R.W. 19) on this point. It is manifest from the evidence produced on behalf of the petitioner himself that the allegation that Haryana Lok Samiti was a camouflage for Arya Samaj is an allegation wholly without substance. Even his own witnesses have admitted it to be a political organisation. Except for the solitary testimony of the petitioner who has called Haryana Lok Samiti as a part of the Arya Samaj organisation, there is no other evidence to prove this allegation.

Another allegation of the petitioner that the Haryana Lok Samiti was formed at the instance of the persons mentioned in paragraph 5 of the petition is also falsified by the evidence of his own witness Pt Shri Ram Sharma, discussed above. He has stated that in the foundation meeting Pt. Budh Deva and Shri Pilar Lal were not present. If they were founders they would have been naturally present at least at the first meeting. Pt Budh Deva has stated in clear terms that he was neither invited nor did he attend it. In my opinion, the allegations made in paragraph 9 of the petition have not been substantiated at all.

The other allegation that the propaganda and the appeal disseminated from the platform of the so-called Haryana Lok Samiti continued to be in the name of Arya Samaj (a religious organisation) and its flag the 'Om Dhawaj' will be dealt with under issues Nos. 14 and 15.

This issue is, accordingly, decided against the petitioner.

#### Issues Nos 14, 15 and 20

It will be convenient to take up these issues together. Issue No. 20 is one of the most important issues in the case. It will be better to quote the allegations of the petitioner in extenso which form the basis of this issue. Paragraph 12 of the petition, which forms the basis of this issue, runs as follows:—

"That the respondent No 1 and his agents mentioned in paragraph 5 above, held public meetings in furtherance of the election prospects of the respondent No 1 at the following places in the Jhajjar Parliamentary Constituency and in Rohtak town on dates given against them in column 2:—

(place of meeting)	date
1. Beri	10-12-61
2. Barhana	19-12-61
3. Dighal	7-1-62
4. Akheri Madanpur	10-1-62
5. Sampala	12-1-62
6. Ladpur	16-1-62
7. Majra Dubaldhan	19-1-62
8. Pakasma	28-1-62
9. Asaudha	7-2-62
10. Jhajjar	11-2-62
11. Badli	12-2-62
12. Dulehra	15-2-62
13. Sisana	16-2-62
14. Bahadurgarh	18-2-62
15. Rohtak	4-2-62

In these meetings, the respondent No 1 and his agents made a systematic appeal to the electorate to vote for the respondent No 1 and refrain from voting for the petitioner on the ground of his religion and language, promoted feelings of enmity and hatred between the Sikhs and Hindus of Punjab, depicting petitioner as an agent of Sikhs; brought undue influence to bear on the electorate by inducing them to believe that any body not voting for the respondent No 1 and voting for the petitioner will become an object of divine displeasure and spiritual censure. A summary of the speeches made by the respondent No 1 and his agents at the various meetings are given in Schedule 'D' attached to this petition. That these meetings were arranged by various Ved Prachar Mandals. One of the leaflets indicating this practice is Schedule 'D(1)'.

Before dealing with each meeting separately I would like to dispose of certain points which are common to all these meetings.

Mr. D. D. Jain, learned counsel for the petitioner, has stated before me that so far as the testimony of Shri Satyavir Rana (P.W. 33) is concerned, he would rely on it only in respect of the meetings at Pakasma, Asaudha, Dulehra and Sisana; though he had stated that he had attended the meetings at Bohar, Rohtak, Sisana, Pakasma, Sampla, Asaudha, Bahadurgarh, Dulehra, Beri, Dighal, Barauna, Jhajjar, Badla, Ladpur, Akheri Madanpur and Majra Dubaldhan.

Mr. Rameshwar Dial, learned counsel for the respondent No. 1, has contended before me that in the absence of any allegations in the pleadings or of any issue regarding the processions and slogans having been raised either in the processions or in the meetings, the evidence given in regard to them could not be looked into. It is true that neither the taking out of any procession nor the raising of any slogans have been mentioned in the petition at all. When the petitioner was in the witness-box he was confronted with this aspect of the matter and he gave the following reply:—

"Yes it is correct that neither of the two facts are mentioned therein. I did not think it necessary to give them as I was concerned only in mentioning the date on which Shri Sidhanti openly declared his intention to participate in the elections of 1962 and no more."

It is correct that I have not mentioned the fact of any slogans having been raised by any person on any occasion whether a meeting or a procession in my election petition, because I thought it was unnecessary and it would make the petition very lengthy. The truth of the matter is that before the recording of evidence before this Tribunal I had no information of the use of any slogans except one that

'Dharam Ka Danka Bajega,

Nastik Jora Bhajegal'."

In support of his contention Shri Rameshwar Dial has relied upon the following observations made by a division Bench of the Punjab High Court, in the case of Ram Phal V. Brahma Prakash, reported in A.I.R. 1962 (Punjab) page 129:—

"According to the law of pleadings and procedure it is difficult to permit a party to proceeding to travel outside his pleadings and the issues. This would be all the more so in the case of election petitions because the standard of proof in such cases is, generally speaking, that of criminal trials which require strict proof of the charge as levelled in the petition".

I respectfully agree with the aforesaid observations. In these circumstances, the entire evidence in respect of processions and slogans will not be looked into as they are not covered either by the pleadings or by any issue.

When Shri Dafadar Singh (P.W. 15) was being examined by the petitioner in respect of the proceedings of the meeting held at Beri, he stated that before the meeting there was a procession which lasted from 8 A.M. to 12 noon. A question was put to him by the learned counsel for the petitioner whether the witness could tell what the processionists were doing while marching. Mr. R. N. Mittal, learned counsel for the respondent No. 1, objected to this question on the ground that it was not covered by any issue in the case. I was inclined to uphold the objection. But in reply to a question put by me the respondent No. 1, who was present before the Tribunal, stated that some of the meetings were preceded by procession and certain slogans, other than those alleged by the petitioner, were raised in the meetings as well as in the processions taken out. Thereupon, the learned counsel for the petitioner urged before me that it was true that there was no allegation in the petition, but in view of the admission of the returned candidate he should be allowed to give evidence. He further contended that in view of the admission of the returned candidate the appellate court may take a different view from that of mine and shutting out of evidence at this stage may entail the remand of the case. I, accordingly, allowed evidence to be given on these two aspects of the case also by both the parties.

Now I take up each meeting separately.

### Beri Meeting

So far as Beri meeting is concerned, the first witness is Shri Dafadar Singh, a constable in the Punjab Police. He was entrusted with the work of reporting from 13th Jun , 1961 to 18th December, 1961, with his headquarters at Jhajjar. According to his evidence he attended the meeting of the Haryana Lok Samiti on the 10th December, 1961, at Beri which is at a distance of ten miles from Jhajjar. He stated that the proceedings of the meeting started at about 1 P.M. and lasted till 5 or 6 P.M. and there was also a procession in the afternoon; and in the procession people were singing Bhajans and raising slogans which were to the following effect:—

"Sidhanti Ki Jai ho,  
Prof. Sher Singh Ki Jai ho,  
Hindi Bhasha amar rahi."

He further deposed that there were about twenty five flags of Om with the processionists. He accompanied the procession from the beginning to the end and also attended the entire proceedings of the meeting. After refreshing his memory he stated that the procession consisted of bulgaris (bullock carts), trucks and tractors etc, and they too were carrying Om flags. The meeting started with a song by Shri Piare Lal Bhajnik and thereafter Acharya Bhagwan Deva, Ch. Badlu Ram, Chaudhri Chandra Singh Vakil, Shri Nanhun Ram, Shri Ram Prasad Dalmiki, Ch. Kanwal Singh, Mahashe Shish Ram, Shri Ramji Lal Dhanuk, Shri Sidhanti and Prof. Sher Singh spoke. The song sung by Shri Piare Lal started with these lines:—

"Dhan Dhan Bhag Hamare,  
Jinko Sher Singh leader hath aye."

He was definite that only one song was sung and no other. The purport of the speeches given by different speakers, as given by him, was that the State Government was showing partiality to Jullundur division at the cost of Haryana region. He further stated that Shri Sidhanti, in the course of his speech, said that he wanted the audience to make sacrifices for Haryana and to see that Prof. Sher Singh was elected. He is also alleged to have said:

"Main khud parliament ke liye khara hoon is liye main ziada kahna nahin chhata. Tum khud apna bhala aur bura samajh lo aur kuch nahin kahna hai."

Regarding the speech of Prof. Sher Singh, he stated that he explained in detail to the audience how the State Government was showing favour to Jullunder division in regard to every matter as compared to Haryana region. According to him Pt. Budh Deva, in the course of his speech, reminded the audience that in the fight between Rama and Ravan people of different caste and creed combined together and helped Rama in defeating Ravan. He said that similarly they should combi' together to fight the Congress and Shri Pratap Singh Kairon, the Chief Minister of the State. He did not say anything more. He admitted in his cross-examination that he had not mentioned in his report that Acharya Bhagwan Deva appealed for the protection of Hindi nor had he mentioned anywhere in his report that Prof. Sher Singh, the present leader of Haryana, is of the same status as that of Guru Govind Singh and Swami Dyanand. A perusal of his evidenc would show that he has said nothing on the basis of which it can be held that any corrupt practice was committed by Acharya Bhagwan Deva, Prof. Sher Singh or respondent No. 1. The only allegation is that there were twentyfive flags of 'OM' with the processionists and on the conveyances accompanying the procession.

The question is whether in the absence of any evidence, even accepting the testimony of this witness, the liability of carrying 'Om flag' by some unnamed processionists and on some of the conveyances used in the procession be laid at the door of respondent No 1. A general and vague evidence of this character is not sufficient to prove that any corrupt practice was committed by the respondent No. 1.

It is significant that Shri Dafadar Singh has not stated anywhere in his testimony that any appeal was made in the name of religion, caste, creed or language to the audience to vote for the return d candidate On behalf of the respondent No. 1, Shri Piare Lal, Shri Harphul Singh, Ch. Badlu Ram, Pt. Budh Deva Prof. Sher Singh and Acharya Bhagwan Deva including the respondent No. 1 himself

have been examined. They have all denied the allegations made on behalf of the petitioner and I see no reason not to accept their evidence.

In my opinion no corrupt practice has been proved to have been committed in the meeting of which liability can be fastened on respondent No. 1.

#### **Barhana Meeting**

The next meeting was held at Barhana. The first witness produced on behalf of the petitioner is Shri Ratan Singh (P.W. 28), a resident of village Dighal, tahsil Jhajjar, district Rohtak. He has deposed that during the election days he attended a meeting at Barhana which was convened by the Haryana Lok Samiti. Shri Sidhanti is the resident of the same village. The witness has got a shop of cycle repairs at Dighal which was at a distance of two miles from Barhana. He came to know of the meeting at Barhana from the younger brother of Shri Sidhanti who is a friend of his. According to his testimony he went in a truck which was flying 'Om flag' along with others to that meeting. He further stated that the two persons in the truck who were standing on the front part of it were raising slogans:—

"Swami Dayanand ki jai ho, Sidhanti Ji ki jai ho, Dharam ke danksa bajega,  
Nastik jora Bhajega. Sikha Shahi Nahin Chalgegi."

On arrival at Barhana, according to him, he got down from the truck and proceeded to the house of his friend, Shri Bhagat Ram, brother of Shri Sidhanti where he found Shri Satyavir, nephew of Shri Daulta, taking meals. After a short while he along with Shri Satyavir proceeded to the meeting. When he arrived at the meeting he found Shri Piare Lal Bhajnik almost completing his song in the honour of 'Om ka jhanda'. Shri Piare Lal, during the course of his song, also exhorted the audience to vote for the candidates set up by the Haryana Lok Samiti in order to keep the honour of Om flag. Shri Piare Lal is alleged to have given another song, the opening lines of which were:

"Haryana loot liya dadi walon ne."

He did not remember anything else of that song. Shri Piare Lal was followed by Acharya Bhagwan Deva who, according to him, in the course of his speech referred to the sacrifices made by Sumer Singh in the cause of Hindi movement and also mentioned that Shri Sidhanti had taken a very prominent part in that movement. Acharya Bhagwan Deva is alleged to have said that Shri Daulta was opposed to that movement. He also stated that Acharya Bhagwan Deva criticised the attitude of the Congress in opposing the use of 'Om flag' during the election, as under the auspices of this very flag they had conducted agitations in Hyderabad, Loharu and in this State. Lastly, he appealed to the audience, that if they wanted that the form of greetings by 'Namaste' to each other was to remain then they should vote for the candidates of the Haryana Lok Samiti. He also stated that the next speaker, Shri Sidhanti, in the course of his speech said that it was not necessary for him to say much as the meeting was taking place in his home village, but he only wanted to say this much that he was fighting the battle of 'Dharm' and in this battle he was opposed by a person who while dining in Ashoka Hotel at Delhi took meat. Thereafter, Prof. Sher Singh is alleged to have warned the audience to be vigilant, in protecting their rights otherwise the Sikhs would swamp them. He supported his statement by referring to a book which was in his hand and telling them that in the State services of Punjab there was a preponderance of Sikhs over Hindus. In cross-examination he admitted that other than the meeting at Barhana he did not attend any other meeting in his ilaqा of any party. He admitted that there was another meeting of Haryana Lok Samiti in his own village at Dighal in January, 1962, but he did not attend it. The reason given by him for not attending the meeting at Dighal was that he was not interested in it. So far as Barhana meeting is concerned the reason given by him for attending it is that he did so at the instance of Shri Bhagat Ram, brother of the respondent No. 1.

The question arises what value is to be attached to his evidence. The reason given by him for not attending the Samiti meeting which took place in his own village is wholly insufficient. If he could go to a distance of two miles to attend a meeting at Barhana after leaving his work—even assuming he did so at the instance of Shri Bhagat Ram—then it can be safely inferred that he would have been inclined to attend other elections meetings. In this view of the matter his absence from the Samiti meeting at Dighal, his own village, casts doubt upon his statement regarding Samiti meeting. In view of his admission that he is on friendly terms with Shri Satyavir Singh, nephew of the petitioner, the possibility that he has come to give evidence at his suggestion cannot be ruled out.

On behalf of respondent No. 1, Shri Piare Lal (R.W. 6), Shri Pale Ram (R.W. 7), Prof. Sher Singh (R.W. 19), Acharya Bhagwan Deva (R.W. 20) and Shri Sidhanti, respondent No. 1 (R.W. 21) have given evidence on the allegations which form the subject matter of this meeting.

Shri Piare Lal, in his deposition, stated that in all these meetings mentioned in paragraph 12 of the petition he used to sing only one and the same song which was:

"Bharat ko azad kara diya khadi ale ne  
 Bhai langoti ale ne,  
 Hariana kha liya loot ke dadi ale ne,  
 Jitne hain yahan log logai,  
 Hariana ki karo bhalai,  
 Sher Singh ko rai do bhak,  
 Kanwal Singh ko rai do bhai,  
 Ram Swarup ko rai do bhai,  
 Attar Singh ko rai do bhai,  
 Sidhanti ko rai do bhai,  
 Dhoti ale ne dovati ghadi ale ne  
 Bharat ko.....  
 Mazdoor zamindar bichare, nit  
 Mehand kar kar ke kha re jinke haq yahan mare jahre  
 Jo hal gadi kuan bah re,  
 Kahaun sun badhi ale ne, kassi mote ale ne  
 Bharat.....  
 Khadi ala Kandhi bap,  
 Dadhi ala Kairon Pratap,  
 Isko thik samaj lo app,  
 Kahi Piare awaz, Thadi ale ne.  
 Bharat ko azad....."

Shri Piare Lal denied that the following stanza formed part of his song:

"Bharat azad kara diya khadi ale ne,  
 Hariana loot liya dadi waloon ne,  
 Gore gore badal gaye aa gaye kale kale  
 Unki jagah malik ban gaye aj dadi wale,  
 Kitne tumko mili naukari ab hisab laga le  
 Pa takan ko jagah nahin chahe kitne school khula le."

He further stated that he used to put the names of the Samiti candidates other than those mentioned in the song at other places also mostly in their respective constituencies. He had never sung any song known as 'Om song.' He completely denied that he ever sung the bhajan, the opening line of which was.

"Om ka jhanda plara,"

in any one of the meetings mentioned in paragraph 12 of the petition. He also emphatically denied that he ever made any speech in any one of the meetings.

Shri Pale Ram, who is a shop keeper of village Barhana, stated that the meeting at Barhana was convened by the villagers themselves and the only slogans that were raised in that meeting were:

"Hariana Lok Samiti ki jai.  
 Shri Sidhanti Ji ki jai.  
 Prof. Sher Singh ki jai.  
 Ch. Kanwal Singh ki jai."

and no other slogans were raised in that meeting. He did not see an flag either inside or outside the Pandal of the meeting. He did not see anybody coming in conveyances and the meeting was mostly attended by the people of his own village. He said that during the course of their speeches Shri Sidhanti, Acharya Bhagwan song that he sung was:

"Bharat ko azad kiya khadi wale ne."

He said that during the course of their speeches Shri Sidhanti, Acharya Bhagwan Deva and Prof. Sher Singh did not say anything which was alleged against them. Shri Sidhanti only said in his speech that if he would be elected he would see that their rights were protected and he would try to improve their lot also. He also thanked the people for the purse, admittedly presented to him. Acharya Bhagwan

Deva asked the people to support Prof. Sher Singh who had been elected the President of the Haryana Lok Samiti so that he may see that better facilities were provided for the education of children of that area and also resist compulsory teaching of Gurumukhi, though he made it clear that he was not opposed to Gurumukhi as a language. Prof. Sher Singh, according to him, complained of discriminatory treatment of the State Government in matters of services, utility projects, education and other matters in favour of Jullunder division at the cost of Haryana. He emphatically denied that any reference was made by any one of the speakers to caste, creed, religion or language.

Prof. Sher Singh, Acharya Bhagwan Deva, and Shri Sidhanti have emphatically denied that the purports of the speeches alleged to have been made by them and given in Schedule 'D' were correct. They have also denied that any appeal was made to those present in that meeting by any of the speakers to vote on the ground of caste, creed, religion and language. Apart from the evidence on behalf of respondent No. 1, which I think is reliable, the sole testimony of Shri Ratan Singh, which is of a doubtful character, is wholly insufficient to establish the allegation of the petitioner regarding this meeting.

#### Dighal Meeting

The fact that a meeting was held at Dighal under the auspices of the Haryana Lok Samiti on 7th January, 1962 is admitted. The first witness on behalf of the petitioner in regard to this meeting is Ch. Kehri Singh Ahlaut. He is a resident of that village and a Zamindar also. According to his testimony the proceedings of the meeting started at about 11 A.M. and he saw a number of people on trucks with 'Om flags' flying on them. Before the actual proceedings of the meeting started some of the slogans raised in the meeting were:—

"Dharam ka danka bajega,  
Nastik jora bhajega,  
Shri Sidhanti ji ki jai  
Shri Kanwal Singh ki jai."

He has further stated that prior to the actual start of the meeting Shri Piare Lal gave two songs, the opening line of the first was:

"Pyara Jhanda Om ka."  
and of the second.

"Haryana loot liya dadi waloon ne."

After finishing the song, Shri Piare Lal is alleged to have told the audience that if they wanted to maintain the honour of Om flag they should vote for the candidates of the Haryana Lok Samiti. He is alleged to have tried to incite the feelings of the audience against the Sikhs and to have warned them that if they failed to vote for the candidates of the Haryana Lok Samiti the domination of the Sikhs would remain. He also charged Shri Daulta and Shri Hardwari Lal as being agents of the Sikhs and alleged that they were edicted to wine and meat. He also mentioned that amongst the speakers were Acharya Bhagwan Deva, Prof. Sher Singh and Shri Sidhanti. Acharya Bhagwan Deva is alleged to have reminded the people about the events of the Hindi agitation and the sacrifices made by Shri Sidhanti. He further said that Shri Daulta had also been ex-communicated from the Biradari and expelled from the Arya Samaj. He is further alleged to have said that if people wanted to save the Hindi language and to maintain the honour of the Om flag they should cast their votes in favour of the candidates set up by the Haryana Lok Samiti. Prof. Sher Singh is alleged to have criticised the State Government for adopting a discriminatory policy in matters of services and other rights between the Sikhs and the Hindus. According to him the Sikhs were the favoured ones. Shri Sidhanti is alleged to have said in the course of his speech that he was seeking election at the instance of the Haryana Lok Samiti leaders. He also said that Shri Daulta had been expelled from the Arya Samaj and ex-communited from the Biradari and was on bad days. Thereafter, he reminded the audience that they had already taken oath in the Vijay Diwas meeting to support him in the election and he hoped that they would stick to it.

Ch. Kehri Singh except for making a vague allegation that the trucks carrying people to the meeting had 'Om flags' flying on them has not given any details whether any one of the persons mentioned in paragraph 5 of the petition had come to that meeting on any one of those trucks. Such a vague statement cannot constitute proof of corrupt practice by the respondent No. 1. His allegation that

Shri Piare Lal sang two songs, one in honour of the Om flag and the other, the opening lines of which were

"Hariana loot liya dadi waloon ne,"

is denied by Shri Piare Lal. Shri Piare Lal who has entered the witness-box on behalf of the respondent No. 1 has denied that he gave any speech either in the meeting. Further the statement of Ch. Kehri Singh that Shri Piare Lal tried to incite feelings of the audience against the Sikhs is also vague. He does not give the words used by him which tended to incite the feelings of the audience against the Sikhs. In the absence of the actual words it is not possible to be certain whether the words used by the speaker actually tended to create feelings of hatred between the Hindus and the Sikhs. It is also significant that he attended another meeting of the Congress party also, but he did not remember the exact date of it. There was another meeting also of an independent candidate, Shri Hari Singh Rathi, in his village but he did not remember the date of that meeting either. He also stated that he was a supporter of Shri Hari Singh Rathi who was an independent candidate from Bahadurgarh constituency and attended a number of meetings convened in support of his candidature. But he did not remember either the dates or the villages where the meetings took place, except a few of them. He also could not give the names of the persons who spoke in those meetings. In the circumstances, it is difficult to believe that he remembered the details of this meeting which was held on 7th January, 1962 and of which he had kept no notes, while he had forgotten the dates and other details of the meetings held under the auspices of the Congress party and in support of the candidature of Shri Hari Singh Rathi. The evidence of this witness does not inspire confidence and has to be rejected.

The respondent No. 1 has denied the allegations made on behalf of the petitioner and has examined Shri Manphul Singh, Shri Piare Lal, Pt. Budh Deva, Prof. Sher Singh, Acharya Bhagwan Deva and himself. In view of the fact that I have rejected the petitioner's evidence in support of the allegations made it is not necessary to discuss their evidence.

#### *Sampla Meeting*

The fact that an election meeting was held at Sampla under the auspices of Haryana Lok Samiti on 12th January, 1962, is admitted. The witnesses examined on behalf of the petitioner in regard to this meeting are Ch. Maru Singh (P.W. 2), Pt. Ram Chandra Sharma (P.W. 5), Shri Ganesh Das (P.W. 19) and Shri Ramdhari Balmiki (P.W. 26).

Ch. Maru Singh is an advocate practising at Rohtak. He was elected a member of the Punjab Legislative Assembly from Sampla constituency in the election of 1952. He was a member of the Arya Samaj since 1930 and was the President of Arya Samaj, Jhajjar for two or three consecutive terms in the years 1954-55. He was also a member of the Executive Committee of the Arya Pratinidhi Sabha, Punjab in the year 1953-54. He was a candidate from Sampla constituency in the last general election of 1962 and was opposed by Ch. Ram Swarup, Pt. Shri Ram Sharma, Ch. Sunder Singh, Com. Munshi Ram and one other. Ch. Ram Swarup was a candidate set up by the Haryana Lok Samiti. According to him he attended the meeting at Sampla and amongst those who spoke in that meeting were Acharya Bhagwan Deva and Shri Sidhanti, respondent No. 1. He stated that the meeting started with a Bhajan by one Shri Piare Lal at the time of unfurling of Om flag. The purport of the song was

"Jhanda piare Om ka."

The flag was of orange colour with the word 'Om' inscribed on it. According to him Om flag is of the Arya Samaj and is flown over institutions connected with the Arya Samaj. He further stated that the Om flag was hoisted before the Bhajan at Sampla meeting and many people who had come to attend that meeting at Sampla had Om flag with them. Om flags were also seen flying on motor cars, motor lorries and other conveyances. He admitted that he did not see Om flags in the hands of any one of the persons mentioned in paragraph 5 of the petition, but he says that he saw Om flags on conveyances which brought them to the meeting. The purport of the speeches of Acharya Bhagwan Deva and Shri Sidhanti as given by the witness was that Hindi did not get recognition on account of the Congress but it was due to the pressure by the Arya Samaj that it was adopted as a national language. Arya Samaj has made sacrifices for the protection of the Hindi language. They further exhorted the audience to vote for those who made sacrifices for Hindi. They are, further alleged to have said

in the meeting that there was objection to the use of Om flags on their conveyances but so far as they are concerned they were not going to be deterred from using them, but they were prepared to make further sacrifices for the honour of that flag. They further expressed their intention to hoist the Om flag on the buildings of the Parliament in New Delhi. He admitted that he did not attend the meeting actually but he watched the proceedings from across the road where the meeting was taking place. In cross-examination he admitted that he was the Secretary of the Zamindara party from 1931 to 1946. It may be stated that the petitioner was also a member of the Zamindara party of Punjab before joining the Communist party. He joined the Congress later. This witness also sought election on the congress ticket in 1962 elections and was given a sum of rupees five thousand for expenses during the election. He is no longer a member of Arya Pratinidhi Sabha, Punjab. He further admitted in cross-examination that he was watching the proceedings of the meeting from across the road from the house of a person whose name he did not remember now. He also admitted that he was not in a position to state who came first to the meeting of the seven persons mentioned in paragraph 5 of the petition. He further admitted that the purport of the speeches delivered by Shri Sidhanti and Acharya Bhagwan Deva was given by him from memory as he had kept no note or memorandum of their speeches. He also admitted that he never made any note of the objectionable nature of the speeches of Acharya Bhagwan Deva and Shri Sidhanti. Naturally one would expect that he would do so when he was himself a candidate for the local Vidhan Sabha from this constituency on Congress ticket and was opposed by a candidate of the Haryana Lok Samiti. It is also surprising that he remembers only one line of the song:

“Jhanda piara Om ka,”

and does not remember any other line of that song. It is also significant that he has been practising for more than thirty years in the district courts of Rohtak and Commissioner's Court at Ambala. He practised in the civil, criminal and revenue courts. In spite of the number of years that he has put in at the Bar and the range of his practice he says he pays only rupees thirty per annum as income-tax. This shows that his status in his profession is not high. I am not impressed by his evidence at all. It appears that because he has resigned from the Arya Pratinidhi Sabha and joined the Congress party and also because he was opposed in the general election by the Haryana Lok Samiti he is deposing against the respondent No. 1. The common bonds between him and the petitioner are that both were members of the Communist party till 1946 and both sought election in the last general election on Congress tickets.

The next witness is Shri Ganesh Das (P.W. 19). He is a head constable and is at present on the mobile staff at Simla. In the year 1961 he was working on the staff of Security Intelligence and according to him he attended the meeting at Sampla on 12th January, 1962. He was posted there on duty. The meeting, according to him, started at 11 A.M. and lasted till 5-30 P.M. He stated that the meeting started with a Bhajan sung by Shri Piare Lal Bhajnik, the opening words of which were:

“Jhanda piara Om ka.”

He said that Shri Piare Lal also exhorted the audience to maintain the honour of the Om flag and said that that could be done only by supporting the candidates set up by the Haryana Lok Samiti. According to him, after Shri Piare Lal another Bhajnik, Shri Vishwa Mitra, also gave a song. The purport of his song was that Shri Daulta was a traitor and the Congress was in favour of cow slaughter. Thereafter another song was given by one Raghbir Singh, the opening lines of which were:—

“Teri saran men aye pita,

Nishani Om ka dijai.”

Amongst others who spoke in the meeting were Shri Sidhanti, Acharya Bhagwan Deva, Prof. Sher Singh, Shri Ramdhari Balmiki (a candidate set up by the Haryana Lok Samiti) and Shri Ram Swarup (also a candidate of Haryana Lok Samiti). The other speakers were the father and the mother of Sumer Singh, the martyr and Shri Raghbir Singh of Delhi. According to him Shri Nanhum Ram said that Shri Sidhanti was a very learned person and he knew the Vedas very well; and Mr. Daulta, being a communist, was a Nastik. Acharya Bhagwan Deva exhorted the audience that elections were coming and people should vote for the candidates set up by the Haryana Lok Samiti and further said that a Badmash of Tendi Heri who was a stooge of Kairon brought a tin of kerosen oil to that

village and threatened to burn the corpse of Sumer Singh which was lying there. He is also alleged to have complained of Gurukh being forcibly imposed upon Hariana people. He alleged that Shri Kairon had forbidden the use of Namaste, a form of greetings which had been used by the people in spite of Aurengzeb's order and also said that in order to maintain the honour of the Om flag they should vote for the candidates of the Samiti. Shri Ram Swarup is alleged to have said in the course of his speech that he was a worshipper of the Cow, Brahman and Kanya and he was also a worshipper of Acharya Bhagwan Deva who like Mahatma Gandhi had declined to accept any office.... Shri Randhari Balmiki also a candidate of Hariana Lok Samiti is alleged to have said in his speech that at the present time only those who were Chamars were given services under the government and others like Balmikis and Dhaniks and other scheduled castes were deprived of that privilege. The father and the mother of Sumer Singh stood up when Acharya Bhagwan Deva was speaking about the Hindi Agitation Movement. The father of Sumer Singh recited a poem, some lines of which were:

"A ja mere munwa, A ja mere bete,  
Chandigarh par kari charhai,  
Kisi papi ne goli chalai."

Shri Raghbir Singh asked people not to vote for the Congress. Shri Sidhanti in his speech said that he was proud of the fact that Naya Bans had produced a martyr like Sumer Singh who by his sacrifices had enhanced the prestige of the Arya Samaj as well as of Hariana Lok Samiti. He further said that on the next day there would be a meeting of the Congress at Kheri in which the Congress people would come with symbols and flags of Akalis and that people should be careful as Congress and Akalis had entered into an alliance. He criticised Master Tara Singh who had started a fast unto death on August 15 which was a date when the entire country was celebrating independence. Prof. Sher Singh, in the course of his speech, said that if people wanted to maintain the dignity of Hariana Lok Samiti they should vote for the candidates set up by it. In cross-examination the witness admitted that he must have covered the proceedings of about thirty or forty meetings all of which were held in connection with the general elections. He admitted that it was not possible for him to remember the dates of the meetings held at different places. He said that he only remembered the dates of the meetings in respect of which he had been summoned to give evidence before this Tribunal and that he did not remember the details of the other meetings which he had covered. There were meetings of Communists, Jan Sangh, Congress as well as of Hariana Lok Samiti at Bahadurgarh. It is not possible for him to tell the places, dates and time of the meetings that he covered during that period unless he saw the record. He made a very significant statement in cross-examination which I propose to quote in extenso. That is:—

"After summons being served upon me I was directed by the D.I.G. (C.I.D.) to take the diary from my office and attend this Tribunal on the 11th September, 1962. I was instructed to go through it and then appear before this Tribunal. I accordingly before coming to the Tribunal had gone through my report. My entire report in respect of the four meetings runs into about thirty-six pages.

Q. How many times you have read this report?

A. The procedure is that every day in the morning this report is handed over to me and in the evening I return it to the office. I again brought it today in the same way and will return it in the evening. Whenever I got it in the morning I read my report. It was not given to me in a sealed cover."

After this statement of the witness Mr. Mittal, learned counsel for the respondent No. 1, said that he should be allowed to go through the report of the witness and put questions to him. I did not allow him to do so for the reason that the witness never refreshed his memory from those reports during the course of his examination-in-chief before this Tribunal. While discussing the testimony of other C.I.D. reporters I have explained why the cross-examining counsel could not be allowed to look into police papers as the witness had not refreshed his memory from them "under examination". I have also rejected the testimony of the police officials who had refreshed their memory at home and thus deprived the cross-examining counsel of his right for looking into their reports in order to check the veracity of the statement made on their basis before the Tribunal. For the same reason the testimony of this witness has also to be rejected.

There is another reason why the testimony of this witness has to be rejected. In his examination-in-chief he has stated that at the meetings held at Jhajjar and Bahadurgarh on 11th February and 18th February, 1962 respectively, Pt. Budh Deva had asked the audience to take oath and to promise that they would cast their votes in favour of Haryana Lok Samiti. In cross-examination the following question was put to him:

"You have stated in your statement that at the meetings held at Jhajjar and Bahadurgarh on 11th February 1962 and 18th February 1962, Pt. Budh Deva gave oath to the audience to promise to cast their votes in favour of Haryana Lok Samiti. In fact no such oath was given and no such promise was taken?"

and he replied as follows:

"I have mentioned that fact in my report."

I have added a note below that, that I myself looked into his report and found that there was no reference in that report of the proceedings of the two meetings sent by him to any oath having been administered by Pt. Budh Deva. Obviously this witness is a tutored one.

I must say that if the D.I.G. (C.I.D.) had instructed the witness as deposed by him, he did not act with propriety.

The next witness is Shri Ramdhari Balmiki, at present a member of the Local Vidhan Sabha from Maham Constituency, in district Rohtak. Among the meetings attended by him that of Sampla was one. But he did not remember either the date or the month or time of the Sampla meeting. The only thing he remembered was that it was in connection with the election. According to him those who participated in the meeting and addressed it were Ch. Ram Swarup, Ch. Nanhu Ram, Prof. Sher Singh, Acharya Bhagwan Deva, Shri Sidhanti and the parents of Sumer Singh deceased and he himself. The nature of the speeches in the meeting was almost similar to that of the meeting at Dubaldhan Majra with this addition that the parents of Sumer Singh appealed to the audience not to vote for Shri Daulta as he was sponsored by the Congress which was responsible for the death of their son. As regards the proceedings at the meeting at Dubaldhan Majra the witness said that there were two songs, after a number of slogans were raised in the meeting, by Shri Piare Lal Bhajnik. He could not remember the purport of the songs. The opening line of the first song was:

"Haryana loot liya dadi walon ne."

The second song was in praise of 'Om ka Jhanda'. According to him Shri Attar Singh Dhanuk complained of the discrimination shown by the Congress party in giving tickets in elections to the Chamars and not to Balmikis and Dhanuks and accordingly he appealed to the members of his community present in that meeting to vote for the candidates of the Haryana Lok Samiti. The witness endorsed the view expressed by Shri Attar Singh the previous speaker and appealed to Balmikis present there for votes. In the meeting the Om flag was flying on the Shamiana. He further stated that Shri Sidhanti in his speech dubbed Shri Daulta and Shri Bhagwan Dayal as 'Nastiks', while about himself he said that he had been all along a worshipper of the Om flag. Shri Sidhanti is alleged to have referred to the ex-communication of Shri Daulta from Arya Samaj as well as from the Biradari. He further criticised him that while taking oath as a Member of the Parliament he did not take oath in the name of God but took oath by affirmation, as he did not believe in God.

The next speaker, Acharya Bhagwan Deva, is alleged to have said that Shri Pratap Singh Malik had complained to the Election Commission about the use of the 'Om flag' by the Haryana Lok Samiti but he could not understand his objection as under this very flag they had successfully conducted agitation in Hyderabad, Loharu and the State of Punjab. He said that as Shri Sidhanti and Prof. Sher Singh had made sacrifices in the past they should all vote for them. He is also alleged to have said that if they cast their votes in favour of Prof. Sher Singh and Shri Sidhanti there would be protection for cow, Brahman and Kanya and the namaste form of salutation. But in case they did not do it there will be no protection for them and the domination of Sikhs will continue. Prof. Sher Singh complained of the discrimination shown between the Haryana region and the Jullunder division by the State Government. He further stated that he had seen the leaflets distributed by the Haryana Lok Samiti. One of them bore this photograph. (It is Ex. P.14 on the record). He further stated that this leaflet on which his photograph appeared was printed and published on

behalf of the Hariana Lok Samiti. This witness before joining the Hariana Lok Samiti was a member of the Congress organisation. He first stated that he joined the Hariana Lok Samiti some time in March, 1961 and then said that he left the Congress organisation in September or November, 1961. There being an obvious inconsistency a question was put to him for explaining it. The witness answered as follows:-

"I had given my resignation from the Congress organisation on 9th or 10th March, 1961 and thereafter a talk was going on between me and the Hariana Lok Samiti but I never joined that organisation. My statement that I had joined the Hariana Lok Samiti in March, 1961 was not correct. My resignation from the Congress organisation was accepted in November, 1961. I left the Congress as my feelings were that the Congress was partial to Chamars and it was not giving a fair deal to the Balmikis and Dhanuks. In this background when Prof. Sher Singh and Shri Jagdev Singh Sidhanti Ji asked me to join them I readily agreed to it as they had promised to support me in the election. The impression in my mind was firmly rooted since October, 1961 that the Congress was not giving a fair deal to the Balmikis and Dhanuks. The reason being that in the past as well as in the present elections the Congress gave tickets in the elections to Chamars only and particularly in view of the fact that there was not even a remote chance for any scheduled caste candidate except Chamars as Dalbir Singh was on the State Parliamentary Board, while Shri Jagjiwan Ram was on the Central Parliamentary Board."

It is manifest that this witness has no regard for any principle and was keen on getting into the local Vidhan Sabha whatever may be the quarter from which he received support. In an answer to a question whether he joined the Hariana Lok Samiti only for the purpose of getting elected to the Local Vidhan Sabha when he became convinced that he will not get Congress ticket, he stated that he had already stated that he was keen on seeking election and when an offer was made by Shri Sidhanti and Prof. Sher Singh for mutual support and cooperation he readily accepted their offer. Regarding the poster with his photograph which was, according to him, distributed on behalf of Hariana Lok Samiti his version that he protested against it is far from convincing. In cross-examination he said that he never appealed in his election to the members of his biradari to vote for him on biradari basis i.e. that he was a Balmiki and therefore the Balmikis should support him. But in examination-in-chief he has stated in clear terms that in the course of his speech he endorsed the views expressed by Shri Attar Singh Dhanuk and appealed for votes to Balmikis present there. His further admission in cross-examination is very illuminating. He said that he was not interested in the success of the candidates of the Samiti but he was interested only in getting himself elected. It is also very significant that on the very next day when the results of the election were declared in which he was elected he re-joined Congress on the 27th February, 1962. I may mention here that while this witness was under examination I put a question to him whether he knew English and in the presence of the counsel for the parties and the officials of the Tribunal present he completely denied that he did. Later I found that he has signed his statement in English in a very set hand. In my opinion, the evidence of this witness is of a highly doubtful character and no reliance can be placed on it. I, accordingly, reject his testimony.

The witnesses produced on behalf of respondent No. 1 are Shri Gyan Chandra, Shri Piare Lal, Prof. Sher Singh, Acharya Bhagwan Deva and the respondent No. 1 himself. They have all denied the allegations made in regard to this meeting. It is not necessary to discuss their evidence, in detail as I have held that the petitioner has failed to prove any one of the allegations made so far as this meeting is concerned.

#### Ladpur Meeting

The meeting at Ladpur took place on the 16th January, 1962 and was presided over by Shri Sheonarain of Yakubpur. The only witness produced about it on behalf of the petitioner is Shri Ganesh Das (P.W. 19) who is a head constable and is at present posted on the Mobile Staff at Simla. According to him those who spoke in the meeting were Shri Piare Lal Bhajnik, Acharya Bhagwan Deva, Shri Hari Singh, Shri Sidhanti and Prof. Sher Singh. He further stated that Shri Piare Lal Bhajnik followed the routine programme as already mentioned in the meeting at Sampla. The speeches of Prof. Sher Singh, Acharya Bhagwan

Deva and Shri Sidhanti were also of the same type as given in that meeting. I have already, while discussing his testimony in regard to the meeting at Sampla, given reasons why his testimony should not be accepted. For the reasons already given, I discard his testimony. The allegations in respect of this meeting have not been substantiated.

#### *Majra Dubaldhan Meeting*

The meeting at Majra Dubaldhan took place on the 19th January, 1962. The first witness on behalf of the petitioner in respect of this meeting is Roop Ram constable posted at Jhajjar. According to him the Om flag was flying on the Pandal of the meeting and the proceedings started with the Bhajan of

“Om ka Jhanda”

by Shri Piare Lal Bhajnik. He gave the names of Ch. Nanhun Singh, Ch. Badlu Ram, Shri Sidhanti, Acharya Bhagwan Deva, Pt. Budh Deva, Shri Ramdhari Balmiki, Shri Attar Singh and Prof. Sher Singh among those who spoke in the meeting. Acharya Bhagwan Deva is said to have complained of the conduct of Shri Pratap Singh Malik, General Secretary of the Congress, for having sent a wire to the Election Commission asking it to forbid the Haryana Lok Samiti from using the Om flag during election. He also complained of the conduct of the Chief Minister of the Punjab in forbidding the employees of the State from greeting each other with “Namaste”. In the end he asked people not to vote for the Congress candidates but to do so for the Haryana Lok Samiti candidates. The evidence of this witness has also to be discarded for reasons given by me above for rejecting the testimony of Shri Ganesh Das (P.W. 19), as he had refreshed his memory at home before appearing in the Tribunal.

The next witness is Shri Sukhi Ram (P.W. 23). He is the Sarpanch of Dubaldhan panchayat for about two years. According to him the meeting was attended by eight to ten thousand people and was convened at the instance of Prof. Sher Singh, Shri Sidhanti and some others of the village itself. The purpose of this meeting was to canvass for votes in the coming election for the candidates of the Haryana Lok Samiti. He further stated that Prof. Sher Singh and Shri Sidhanti both came to the meeting in a jeep on which there was the Om flag. He also stated that the flag of the Arya Samaj is of red colour with the word ‘OM’ inscribed thereon. He also saw a number of other conveyances which were bringing people from the neighbouring villages. On those conveyances also the Om flags were flying. The truck in which the witness came to the meeting had also the ‘Om flags’ and the people sitting in it were shouting slogans, some of which were:

“Sikha shahi nahin chalegi,  
Dharam ka danka bajega,  
Nastik jora bhajega.”

Similar slogans were also raised in the meeting. The meeting started at about 11 or 11.30 a.m. with two songs by Shri Piare Lal. The opening words of the first song were:

“Haryana loot liya dadi walon ne.”

and the second related to the Om flag. The purport of the second song was that under the very flag they had succeeded in Hyderabad, Loharu and in the Hindi Agitation Movement in Punjab and now under the auspices of the same flag they would fight the general election for the success of the Haryana Lok Samiti candidates and they will finish the regime of the Sikhs. There was a reference also in the song to the fact that the Sikhs had usurped their rights. Lastly, there was an appeal to the people to vote for the candidates of the Haryana Lok Samiti.

The first person, according to him, to address the meeting was Shri Attar Singh Dhanuk who complained that the Congress had given election tickets to Chamars only and not to Balmikis and Dhanuks of the scheduled caste. He appealed to the members of his community to vote for him. The purport of the speech of Shri Ramdhari Balmiki was the same as that of Shri Attar Singh.

Shri Sidhanti is alleged to have said that there were two pairs of contestants in the election, one of Prof. Sher Singh and himself, who were supported by the Haryana Lok Samiti and the other of Pt. Bhagwat Dayal and Shri Daulat of the Congress party. He is alleged to have said that Shri Daulat while taking oath in the Parliament did not do it in the name of God but by solemn affirmation. He

is also alleged to have said that Shri Daulta has been ex-communicated from the biardari. Shri Sidhanti also complained that cow slaughter was still going on under the Congress Government and if they wanted to protect Hindi and avoid compulsory teaching of Gurmukhi then they should vote for the candidates of the Haryana Lok Samiti. Prof. Sher Singh is alleged to have complained of the discrimination shown by the Government in matters of State services between the Hindus and the Sikhs. In cross-examination he admitted that there was a meeting of the Congress party in his village which was attended by him, but he could not either give the date or the month in which the meeting of the Congress party was held. He could not also recollect how many people spoke at the meeting of the Congress party in his village. The reason given by him for remembering the proceedings of the meeting of the Haryana Lok Samiti in his village was that he had a strong memory; while the reason given by him for not remembering the details of the Congress party meeting in his village is that he was not interested in it. This is a wholly insufficient reason. If he had a strong memory, as he claims to have, one could expect him to remember the proceedings of the meeting of the Congress party also. If he was not interested in the other meeting it is difficult to understand why he attended them. He also admitted that he got a copy of the petition under a registered cover from Shri Daulta prior to its being filed before the Election Commissioner of India. This shows how much interested he is in the petitioner's case. Further this witness's evidence is at variance with the summary of this meeting given in Schedule 'D' of the petition. The evidence of this witness does not carry conviction and it will not be safe to rely upon it.

The next witness produced on behalf of the petitioner regarding this meeting is Shri Ramdhari Balmiki. I have already given reasons for not relying upon his testimony, while dealing with his evidence in respect of the meeting at Sampla. For the same reasons his evidence in respect of this meeting also has to be rejected.

The allegations about this meeting are denied on behalf of respondent No. 1 and he has produced Shri Piare Lal, Shri Jug Lal, Prof. Sher Singh and himself. I do not think it necessary to discuss their evidence as the petitioner has failed to prove the allegations by any reliable and cogent evidence.

The result is that the allegations of the petitioner in regard to this meeting also remains unsubstantiated.

#### *Pakasma Meeting.*

The only witness on behalf of the petitioner in respect of Pakasma meeting is Shri Satyavir Rana (P.W. 33). According to him this meeting started at about 11 or 12 and terminated at about 4 P.M. and before the actual proceedings of the meeting started slogans were raised by the persons present there. According to him the slogans were:

"Hindi bhasha amar rahe. Sikha Shahi nahin chalegi. Arya Samaj ki  
jai ho. Rishi Dayanand ki jai ho. Om ke Jhanda walon ko  
kamiyab banao."

He also stated that Shri Taleh Ram was elected President of that meeting. He also stated that two songs were given by Shri Piare Lal, one in the honour of Om flag and the other, the opening line of which was

"Haryana ko loot ke kha liya dadi walon ne."

After he had finished the songs Shri Piare Lal made an appeal to the audience that Haryana was being dominated by the Sikhs and if they wanted to get rid of their domination and maintain the honour of Om flag they should vote for the candidates set up by Haryana Lok Samiti. Ch. Ram Swarup is alleged to have asked for another chance to serve them. In the end, he is alleged to have made an appeal that the people should try that those who were fighting election under the auspices of Om flag should be successful. The next speaker, Acharya Bhagwan Deva, is said to have reminded the audience of the incident of Satyagrah movement and to have pointedly placed before them the sacrifices made by the people of Sampla Assembly Constituency including the sacrifices made by Shri Sidhanti who was put in jail. He appealed for votes for the candidates set up by the Haryana Lok Samiti. Shri Sidhanti who followed him is alleged to have informed the audience that he had decided to fight election against Shri Daulta in the next general election and also called him 'Nastik' on account of his having dined at Ashoka Hotel, New Delhi. He is also said to have

told the audience that while he had supported the cause of Hindi Shri Daulta was opposed to it and also dubbed him as a slave of the Sikhs.

The last speaker, according to him, was Pt. Budh Deva who complained of compulsory teaching of Gurmukhi in the Hindi region and usurpation of the rights of the Haryana people by the Sikhs. According to him this could be avoided only by supporting the Samiti candidate in the next general election. He is further alleged to have asked the people present there to raise their hands who were in support of his views and the entire crowd, which must have been about seven thousand raised their hands. Thereafter, it is said, that Pt. Budh Deva while giving Ashirbad reminded the audience that if they did not stick to their promise they will go to 'Nark'.

This witness is the editor of *Shere-Haryana* weekly magazine, the first issue of which came out on the 26th June, 1961. This weekly is owned by Shri Daulta, the petitioner in this case. According to this witness the policy of this paper is not of Shri Daulta alone but there is a Board of five persons consisting of Shri Daulta, Ch. Maru Singh, Ch. Phul Singh Kataria, Shri Balbir Singh Rathi and the witness himself, which laid down the policy of this weekly. It may be mentioned that Ch. Maru Singh and Ch. Phul Singh Kataria have appeared as witnesses on behalf of the petitioner. He further admitted that he used to live with Ch. Ratan Singh, brother of Shri Daulta, for about five years and he is the sister's son of Shri Daulta, the petitioner. He also admitted that he used to arrange meetings for propaganda in favour of Shri Daulta and used to go from door to door canvassing for votes for Shri Daulta.

This witness is highly interested in the petitioner and it will not be safe to rely upon his testimony. He is the solitary witness in respect of this meeting. The allegations regarding this meeting also remain unsubstantiated.

#### *Jhajjar Meeting.*

The meeting at Jhajjar took place on 11th February, 1962. The first witness in regard to this meeting is Shri Phul Singh Kataria (P.W. 10). He was a member of the Punjab Legislative Assembly from 1957 to 1962. According to him people who attended this meeting in large number were from Jhajjar town as well as from surrounding villages. Every one was coming with Om flag on the conveyance used by him. He saw the flag of Om on the jeep of Shri Sidhanti. He further stated that the first item of that meeting was a Bhajan sung by Shri Piare Lal which began with

"Piare jhanda Om ka."

He did not remember the entire Bhajan but the purport of that Bhajan was that the first and the primary thing was to keep flying the Jhanda of Om. Thereafter, it is alleged that he gave another song which began with the words:

"Hariana loot liya dadi walon ne."

It is mentioned in that song that Shri Daulta and Shri Bhagwan Dayal were the agents of Sikhs. It was also mentioned in that song that Shri Daulta was not only the agent of the Sikhs but was also anti-Hindi. The recitation of the song was punctuated by short speeches also. He is alleged to have said that for the protection of Hindi, votes should be given to those who belonged to the Haryana Lok Samiti. Among those who spoke in the meeting were Shri Ramdhari Balmiki, Shri Bharat Singh, Ch. Nanhun Singh, Shri Kanwal Singh, Acharya Bhagwan Deva, Prof. Sher Singh, Shri Sidhanti and Shri Ramdhari Gaur. The last person who spoke was Pt. Budh Deva Vidya Alankar.

Shri Bharat Singh Saini is alleged to have appealed to his Saini brotherhood to support the candidature of those who had been set up by the Haryana Lok Samiti. Acharya Bhagwan Deva is alleged to have given his usual speech praising the Om flag and the achievements made under its auspices. He also asked the audience that in order to resist the compulsory teaching of Gurmukhi they should support the candidates set up by the Haryana Lok Samiti. Prof. Sher Singh gave his usual speech complaining about the discrimination shown by the State Government in matters of services between the two regions of this State. Shri Sidhanti is alleged to have criticised bitterly the petitioner as he was a non-vegetarian and he did not believe in God. He further stated that the meeting came to an end with the blessings given by Pt. Budh Deva Vidya Alankar, who is alleged to have asked the audience to look towards the Sun and to remember that on the 24th January when the election was to take place they should cast their votes in favour of the "Symbol of Sun" which was a

symbol of the Samiti and asked them to take oath. According to his estimate about eighty per cent of the people present took the oath. They were further reminded by Pt. Budh Deva that if those who had taken oath did not stick to it they would go to hell. In cross-examination he admitted that in the general election of 1957 he was elected on the Communist ticket to the Local Vidhan Sabha, while Shri Daulta was elected to the Parliament on the same ticket. He further admitted that though he attended the meeting of the Congress party which took place later than that of Haryana Lok Samiti he was not in a position to give either the date or the complete details of that meeting. He also admitted that he must have attended about ten other meetings, but for some of them he was not in a position to give their dates. The following question was put to him in cross-examination and he replied as follows:—

"Q. What were the significant facts that you remember the proceedings of the two meetings, one convened by the Haryana Lok Samiti and the other by the Congress, and you do not remember so much detail or other meetings."

"A.—The reason why I remember the proceedings of those two meetings is that they were connected with elections and everybody takes interest in election days in such meetings."

He further admitted that though he was a Communist he left that party and joined Congress shortly before the general election. Subsequently, however, he severed his connection with the Congress organisation as he applied for a Congress ticket and it was refused. The evidence of this witness, to say the least, is of a doubtful character and cannot be safely relied upon.

So far as the two other witnesses, i.e. Shri Ganesh Das and Shri Ramdhari Balmiki are concerned, I have, while discussing their evidence earlier, given reasons for not relying upon their testimony and the same reasons hold good for not accepting their testimony in respect of this meeting also.

#### *Badli Meeting*

The meeting at Badli was held on the 17th February, 1962 and the allegations regarding this meeting are also of the same character as in respect of the earlier meetings discussed above. The only witness produced on behalf of the petitioner in support of his allegations is Shri Roop Ram (P.W. 20). While discussing his evidence in respect of the meeting at Majra Dubaldhan, I have already given reasons why his evidence cannot be accepted. The same reasons hold good in respect of this meeting also. It is not necessary to discuss the evidence produced on behalf of the respondent No. 1 who denies the allegations, as the petitioner himself has not proved the allegations. The allegations regarding this meeting also have not been proved.

#### *Dulehra Meeting*

The meeting at Dulehra took place on the 15th February, 1962. The allegations of corrupt practice in regard to this meeting also are similar to those of earlier meetings. Shri Satyavir Rana (P.W.33) who attended this meeting has stated that the meeting started in the same manner as the meeting at Asaudha, there were similar slogans raised and thereafter Shri Piare Lal recited two songs. Among the speakers, Shri Sidhanti, in the course of his speech, complained of the discrimination between the Punjabi region and the Hindi region in respect of every matter. He is further alleged to have said that the discrimination was in favour of Punjabi region. The rest of the speech of Shri Sidhanti as well as that of Prof. Sher Singh was a repetition of what they had already said at the earlier meeting at Asaudha.

I have already given reasons earlier for not accepting his testimony and for the same reasons it is rejected in respect of this meeting also. The allegations regarding this meeting have also not been substantiated.

#### *Sisana Meeting*

The meeting at Sisana took place on the 16th February, 1962. The allegations of corrupt practice alleged to have been committed in this meeting are of the same nature and character as those of the earlier meetings. The only witness produced on behalf of the petitioner is Shri Satyavir Rana (P.W.33). I have already given reasons earlier for not relying upon his testimony and for the same reasons I reject his evidence in respect of this meeting also. The allegations regarding this meeting also remain unsubstantiated.

**Bahadurgarh Meeting**

The meeting at Bahadurgarh took place on 18th February, 1962. The allegations in regard to this meeting are also of the similar nature and have been tried to be supported by the evidence of Shri Ganesh Das (P.W.19), Shri Ramdhari Balmiki (P.W.26), Shri Sheonarain Vatas (P.W.32) and Shri Bedi (P.W.9). I have already discarded the testimony of Shri Ganesh Das and Shri Ramdhari Balmiki. After discarding their testimony there remains the testimony of Shri Vatas (P.W.32) and Shri Bedi (P.W.9).

Shri Vatas belongs to the Communist party and is a member of the State Council of that party in this State. He is also on the Secretariat of the Communist District Committee of Rohtak. He attended the meeting of the Haryana Lok Samiti at Bahadurgarh on the 18th February, 1962, which was held in open and was attended by about fifteen hundred people. According to his testimony the flags of Om as well as of Rising Sun were being displayed there. He also stated that the flag of the Arya Samaj was Om flag. When he arrived the meeting was in progress and according to him at that time Pt. Budh Deva had just taken his stand on the dias and was about to give his speech. He further stated that Pt. Budh Deva raised the slogans:—

“Sanatan Dharm ki jai.  
Arya Samaj zinda bad.  
Arya Dharam ki jai,”

and other slogans which he did not remember. He has further stated that Pt. Budh Deva described Shri Daulta as 'Nastik' and exhorted the audience to see that the pair of Nastiks did not succeed in the coming general elections. He is also alleged to have described Shri Daulta as an enemy of Hindi as well as Ved Virodhi. In cross-examination he admitted that he was an active worker of his party during the last general elections for the candidates who were seeking election on Communist ticket. But he did not complain of the use of Om flag in this meeting to any authority including those who were responsible for conducting the election. He admitted that from this very constituency of Bahadurgarh his Comrade Shri Mange Ram, who was opposed by Shri Kanwal Singh of the Haryana Lok Samiti was seeking election. It stands to reason that if really hundreds of Om flags were displayed in this meeting, this witness who is a very active and influential member of the Communist party of this State would not have complained to higher authorities regarding their use, at least in the interest of his fellow communist Shri Mange Ram.

According to the witness he attended this meeting for about 20-25 minutes only. He had not heard the entire speech of Pt. Budh Deva. It is also difficult to understand why Shri Bhagwat Dayal was described as 'Nastik' in that meeting when he was not a candidate from that Constituency.

I think this witness came to appear before the Tribunal due to his past close association with the petitioner; both having been members of the Communist party in India. His evidence is not worthy of credence.

The other witness examined on behalf of the petitioner in this connection is Shri Satyavrat Bedi, the staff correspondent of the daily newspaper 'Indian Express', which is published and printed from Delhi. According to his evidence he was deputed to the State of Punjab on behalf of his paper to survey the election scheme in the last general election. Out of the places in the Jhajjar Parliamentary Constituency he visited only two i.e. Bahadurgarh and Sampla. After his survey of Rohtak for three days he visited Sampla, Bahadurgarh and Rohtak in one day and whatever he saw or heard he has given in the report he sent to his paper on the 18th February, 1962. When he appeared before me he pleaded that he could not say with certainty what he had written in his report as only a faint impression was left on his mind on account of passage of time. He requested for permission to look into the issue of Daily Express in which his report was published. After I had permitted him he stated that he was stated in his report that 'religious symbols' and religion were being frequently used damaging the chances of success of Shri Daulta who was set up against Shri Sidhanti. He has also said in his report that in the entire district the atmosphere was vitiated by appeal to caste and Gotra. He also found the Om flag hoisted on the office of the Haryana Lok Samiti. He also saw the Om flag fluttering on the office of Shri Sidhanti at Sampla. Shri Bharat Singh, one of those mentioned in paragraph 5 of the petition, was seen going in a jeep which had Om flag fluttering on it.

The question that arises for consideration is whether his evidence is legally admissible. For the reasons given by me earlier, while dealing with the evidence of Shri Ram Nath Sapra (P.W.12) the evidence of this witness also is not legally admissible. The evidence by this witness has also been given after refreshing his memory from a copy of the newspaper in which his report had been published. He has not refreshed his memory either from the notes taken by him or from the original report sent by him. As provided by section 159 of the Indian Evidence Act, the witness can only refresh his memory from his own notes taken at that moment or from any report made immediately thereafter. Not having done so, his evidence is legally not admissible and cannot be relied upon.

The allegations regarding this meeting also remain unsubstantiated.

#### *Rohtak Meeting*

This meeting at Anaj Mandi, Rohtak was held on 4th February, 1962. The witness in respect of this meeting is Shri Ram Nath Sapra (P.W.12). According to his testimony he attended this meeting at Rohtak Town in Anaj Mandi. He could not give the actual date of the meeting but said that it took place ten or twelve days before the actual polling. A procession was taken out before the proceedings of the meeting started. He further stated that the processionists carried flags either with the symbol of Rising Sun or of Om. The flag of Om is used by the Arya Samaj. According to him, before the proceedings of the meeting started a Bhajan was sung by Shri Piare Lal, the purport of which was a prayer to God. In the aforesaid Bhajan there was an exhortation for upholding the honour of the Om flag. He could not remember how many Bhajans were sung by Shri Piare Lal; they might have been two or three. He further stated that he was present throughout the aforesaid meeting. The last person, according to him, who addressed the meeting was Pt. Budh Deva Vidya Alankar, who, after giving Ashirbad to the audience enjoined them to vote for the candidates set up by the Haryana Lok Samiti and so raise their hands in support of it, which the people present there did. In cross-examination he stated that he covered the proceedings of Rohtak meeting and sent a report of the same to all the five newspapers. He further admitted that during the months of January and February he attended a number of meetings of different parties in the last general election and during the course of it he covered the proceedings of four or five meetings convened by the Congress, five or six by Jan Sangh and one by Haryana Lok Samiti, but he was unable to give the names of the persons who presided over those meetings or the names of the speakers who spoke in any particular meeting. But he could tell the names of the speakers who took part in the meeting convened by the Haryana Lok Samiti. It is significant that he has not given any reasons why he remembered about the proceedings of the meeting convened by the Haryana Lok Samiti at Anaj Mandi Rohtak, when he could not remember the details of the meetings convened by the Congress and Jan Sangh which he admitted to have attended during the election days. It is also a matter to be taken notice of that Rohtak was outside the Parliamentary Constituency of Shri Sidhanti. The allegations in regard to this meeting made by the petitioner are denied and in support of it respondent No. 1 has examined Shri Piare Lal, Mahashe Bharat Singh, Pt. Budh Deva, Prof. Sher Singh, Acharya Bhagwan Deva and himself. They have all, with one voice, denied the allegations made on behalf of the petitioner as well as the version given by the witnesses of the proceedings of that meeting. I have no hesitation in rejecting the testimony of Shri Ram Nath Sapra, as his evidence is far from convincing, while the evidence on behalf of the respondent No. 1 is better and can be safely relied upon.

The allegations in regard to this meeting also have remained unsubstantiated.

Mr. Rameshwar Dial, learned counsel for the respondent No. 1, has placed another aspect regarding these meetings which form the subject matter of issue No. 20 and mentioned in paragraph 12 of the petition. He has contended that the corrupt practices alleged to have been committed by respondent No. 1 and others mentioned in paragraph 5 of the petition are given in Schedule 'D' under the heading "Summary of the meetings," and if comparison is made with the allegations made therein and with the evidence given in support of them by the witnesses produced on behalf of the petitioner it will be found that they are at complete variance. As an example, he has cited the summary of the meeting held in village Beri on 10th December, 1961. The summary given in Schedule 'D' of the petition runs as follows:—

"The meeting was held under the Presidentship of Shri Siri Chand President of Beri. The meeting was started with Piare Lal's Bhajan "Piara Jhanda Om Ka" and after making a brief speech showing respondent

No. 1's contribution to Hindi Andolan of 1957 he gave another song "Hariana loot liya dadi walon ne." Sh. Badlu Ram Ex-M.L.A. said that Prof. Sher Singh who is a candidate from Jhajjar Constituency is a lion of Haryana. He only can liberate Haryana from Sikhs. Sidhanti (respondent No. 1) and Sher Singh were in jail when Hindi Agitation was going on where were Pt. Bhagwat Dayal and Daulta.

Nanhun Ram M.L.A. narrated his favourite story of the boat which was drowned because one eyed man was in the boat and the boat was compared with Congress. He said that Congressmen were after permits and quotas. Lok Samiti Walas were fighting for Hindi and for Haryana.

Jagdev Singh Sidhanti (respondent No. 1) said "Daulta says that I am illiterate. This is wrong. I can read all the Vedas and Shastras but I am opposed to Punjabi's teaching in Haryana. Daulta says in olden days Sanyasis will go in Tapovan but in Kalyug they are running after offices in Parliament and Assemblies. I am going to Parliament for Dharam, for this flag. Daulta is Nastik and takes meat. That he is anti Hindi you know all over the district. He (Daulta) opposed Hindi Andolan in 1957 where as I (respondent No. 1) went to jail for Hindi. He said, he was going to Parliament for the protection of Brahmins, cows and ladies.

Acharya Bhagwan Deva: "War is between Dharam and Adharam between Hindi and Punjabi, between Harians and Sikhastan." Haryana Lok Samiti will fight for Hindi, for Haryana; for Om flag which will be hoisted at Chandigarh and Delhi. Prof. Sher Singh gave facts and figures showing discrimination with Haryana. He challenged the publication of poster by Pt. Bhagwat Dayal alleging his signature on Sachar Formula. He said he would like to go to Assembly to expel Punjabi from Haryana.

In the last Pt. Budh Deva was asked to give Ashirvad to audience. He agreed to give Ashirved on one condition. The condition was that audience should take a pledge to vote for Haryana Lok Samiti candidates. President asked audience to raise their hands to assure Pandit Ji that his command will be respected. Thereupon Pandit Ji gave Ashirvad for the success of Haryana Lok Samiti and warned persons stating that in case audience went back on their pledges they will go to Narak (Hell) as they have pledged before representative of the "Brahman."

In this meeting more than rupees seven thousand were given to Prof. Sher Singh for his election campaign and the meeting ended."

Shri Dafadar Singh, a constable in the Punjab police who had been deputed to cover the proceedings of that meeting gives completely a different version of the proceedings in that meeting. According to him Shri Piare Lal gave only one song the opening lines of which were:

"Dhan dhan bhag hamare,

Jinko Sher Singh leader hath aye."

He is definite that he gave only one song and none other. According to him Shri Nanhun Ram, in the course of his speech, had said that all the amenities of life e.g. electricity, schools and canals as enjoyed by Jullunder division were denied to this area. He also said that there was discrimination against us and unless proper candidate from Haryana were elected to the Assembly the lot of Haryana people will not improve. He also said that Prof. Sher Singh was honest and able and a well-wisher of Haryana and as such he should be elected. He did not say anything else.

According to him, Shri Sidhanti in the course of his speech said that he wanted the audience to make sacrifices for Haryana and to see that Prof. Sher Singh was elected.

The purport of the speech of Acharya Bhagwan Deva given in Schedule 'D' has not been corroborated by him. According to him Acharya Bhagwan Deva said that they had been under the domination of foreign rulers who were responsible for tacking Haryana region to the Punjab State and the result had been that Haryana which was a separate province had suffered on

account of its being made a part of Punjab. The version of the speech of Prof. Sher Singh given in the Schedule is also not corroborated in any respect by this witness. The allegation that Pt. Budh Deva agreed to give Ashirvad only on the condition that the audience should take a pledge to vote for Haryana Lok Samiti candidates and after they had promised he warned them that in case they went back on their pledges they will go to Nark as they had pledged before a representative of 'Brahm' finds no place in the evidence of this witness. As a matter of fact, this witness has given a completely different version of the part played in that meeting by Pt. Budh Deva.

This is not a solitary instance. As a matter of fact, the summaries of the meetings given in Schedule 'D' have not only been not corroborated by the testimony of the witnesses produced on behalf of the petitioner but are in majority of the cases completely at variance. It is manifest, therefore, that the summaries of the particulars of the meetings given in Schedule 'D' are full of half truths, falsehoods and embellishments.

I have been referred by the petitioner to the evidence of Shri K. K. Katyal (P.W. 14), the special correspondent of the *Hindustan Times* for the Punjab. He had covered a part of Jhajjar Parliamentary Constituency during his tour in the days of election. His evidence is of a general character. In his examination-in-chief he has deposed as follows:—

"I did not see any formal meeting or procession in this particular constituency. But in the election campaign there was evidence of placards, flags and slogans in different parts of the constituency. These leaflets and pamphlets and slogans were on behalf of Haryana Lok Samiti. The posters were all about Haryana relating to the alleged grievances, step-motherly treatment of the Punjab Government and the responsibility of the ruling party in this regard. They laid the responsibility at the door of the ruling party. They showed discriminatory treatments meted out to the people of Haryana region as compared to Punjabi areas".

He again said:

"I do not recollect the details of these posters, leaflets, pamphlets and slogans. But my impression was that they wanted to spot light their alleged grievances".

The only reason which he gave on the basis of which he has said in his evidence that there was an appeal to Arya Samaj by Haryana Lok Samiti was that the symbol of Om was inscribed in the flags, which he saw at places. He saw many flags at some way side stalls as he travelled from Delhi to Rohtak and on some buildings and at a random enquiry from the stall holders he was told that they were the supporters of the Samiti.

This is too vague a statement on which any reliance can be placed. The liability of the use of those flags by complete strangers could not be laid at the door of respondent No. 1.

A major portion of the evidence of this witness has also to be discarded for the same reason that I have given earlier for rejecting the testimony of Shri Satyavart Bedi (P.W. 9), as he had also refreshed his memory from a copy of the issue of *Hindustan Times* dated the 22nd February, 1962, which legally he could not do.

In my opinion, none of the allegations covered by these issues has been established. I accordingly decide all these three issues against the petitioner.

#### Issue No. 3.

The two main provisions of section 123 of the Representation of the People Act, which the respondent No. 1 is alleged to have contravened in connection with his election campaign are clauses (3) and (3A) of this section.

Before discussing whether the allegations made or proved amount to an infringement of these provisions, it is necessary to deal first with the scope of these provisions.

Taking up clause (3A) first, it would be noticed that the expression "attempt to promote feelings of enmity or hatred between the different classes of the citizens of India" has been borrowed from section 153A of the Indian Penal Code. If we

proceed to analyse the clause, it will be found that before the clause can apply it must be proved that:

1. The candidate or his agent or any other person with the consent of the candidate or his election agent did something amounting to promotion or an attempt to promote.
2. What was promoted or attempted to promote was feeling of enmity or hatred.
3. The feeling of enmity or hatred was being promoted between the different classes of citizens of India.
4. The ground on which the feelings of enmity or hatred were being promoted or attempted to be promoted were religion, race, caste, community or language, and
5. That the purpose of the promotion or the attempt to promote was the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any other candidate.

The word 'promote' according to Webster's Dictionary means 'contribute to the growth, enlargement or prosperity of (any process of thing that is in course); to forward; to further; to encourage; to advance; to excite and also to urge on or to incite any other as to strife'. The expression "promotion of or attempt to promote feelings of enmity or hatred" must, therefore, be interpreted as connoting a successful or unsuccessful endeavour to create or spread class hatred and feelings of hostility. The effect or at least a part of the effect of the 'attempt' should be to bring about such a state of affairs that one group of citizens which can be considered to form a class by itself should begin to harbour hatred or enmity against another group or groups of persons of a similar kind. All attempts to bring about such hostility or hatred will not necessarily fall within the mischief of the clause. The clause will be attracted only if the enmity or hatred is to be created on grounds of religion, race, caste, community or language; or if the feeling already exists it gets incensed. The group of persons between whom such feelings are being created or encouraged must be a definite and ascertainable group. The word 'class' carries with it an idea of numeral strength as well as homogeneity. Whether or not the purpose is to promote enmity or hatred is to be decided on the basis of internal effect of the propaganda made keeping in view the surrounding circumstances as well as the background. Care must be taken to bear in mind that merely extolling, praising, giving importance to, pointing out the needs or emphasising the requirements of any particular religion, community, race or language though it may indirectly affect another in some adverse manner cannot necessarily amount to the promotion of feelings of enmity or hatred between two classes of persons. In fact, human nature being what it is, it sometimes becomes necessary in an election campaign to lay emphasis on the fact that one particular community, religion, race or language is being neglected at the expense of another and its needs are neither being appreciated nor being fulfilled. Unless that is done it will not be possible to draw pointed attention to the needs of that particular language, race, religion or community and its case is likely to go by default. All this can, however, be done without exciting hatred or enmity between two classes. What is forbidden is the exciting of such feelings and basing the attempt on differences between caste, community, race, religion or language. As a result of what the candidate or his agent says or does there should be no likelihood of two classes of citizens turning inimical to each other or starting hating each other because they differ in religion, caste, language or community.

Another aspect of the matter which has to be kept in mind is the time factor. The last few words of the clause requiring that the purpose of the creation of enmity or hatred should be the furtherance of prospects of the election of the candidate or prejudicially affecting the election of any other candidate show that the acts complained of, which are alleged to amount to a contravention of clause (3A) must have some intimate and proximate connection with the particular election that is being questioned. This is clear from the use of the definite article 'the' before the word 'election' in the clause. The promotion or attempt to promote which can thus be made a grievance of must relate to the particular election. If it does not, it cannot be treated as a corrupt practice. So, even if something is done to promote enmity or hatred between two classes on the ground mentioned in the clause. If it is done long before the date of the election and cannot, on account of the intervening lapse of time, be necessarily connected with that election it cannot be utilised as a corrupt practice to defeat the election. The corrupt practice

contemplated by the clause must be committed at the time of the election or shortly before it so that it can be connected with the election.

The allegations made in the petition in order to bring the respondent No. 1 within the mischief of clause (3A) are to be found in paragraphs 6, 7, 11 and 12 of the petition. These allegations are denied in the written statement by respondent No. 1 who has produced a number of witnesses in support of his plea. The entire evidence in support of this plea has been discussed by me while dealing with the allegations made in respect of the meetings that took place during the election days.

From what I have shown it is clear that none of the five essential ingredients of that clause of section 123 can be held to be established by the petitioner.

So far as clause (3) of section 123 is concerned, it has not been suggested that any appeal was made on the basis of any national symbols like the national flag or the national emblem. The respondent is alleged to have contravened clause (3) because, according to the petitioner, the respondent's supporters in the election used the flag of 'OM' which is said to be the religious flag of the Arya Samaj and also made an appeal to voters to vote for the respondent No. 1 as he belonged to the Arya Samaj and to refrain from voting for the petitioner because he was not a true Arya Samajist and was not in favour of the Hindi movement that was being supported by the respondent No. 1.

For the application of clause (3) it must be proved that:

1. The candidate or his agent or any other person with the consent of the candidate or his election agents made an appeal or used a religious symbol.
2. If an appeal was made,
  - (a) it was that a person should vote or refrain from voting for any candidate on the ground of his religion, race, caste, community or language, or
  - (b) it was an appeal to religious symbols.
3. The purpose of the appeal or the use of the religious symbol was for the furtherance of the prospects of the election of the candidate or for prejudicially affecting the election of any other candidate.

For the application of this clause in the present case, therefore, the petitioner had to prove that:-

1. The 'Om flag' was a religious symbol of the Arya Samaj and that it was used or an appeal to it was made.
2. The electors were asked to vote for the respondent No. 1 or refrain from voting for the other candidates on the ground of religion, community or language.
3. This was done by the candidate himself or his agent or by any other person with the consent of the candidate or his election agents, and
4. It was done for the furtherance of the prospects of respondent No. 1's election or for prejudicially affecting the election of the other candidates.

In spite of a large volume of evidence produced on the question whether the 'Om flag' is a religious symbol of the Arya Samaj, it cannot be said that it is a religious flag of the Arya Samaj alone. The word 'Om' is a symbol which is worshipped and respected by the Hindus in general without any restriction as to dogma or creed. It is used in the beginning of almost every Mantra and is considered to represent the Supreme Being. After perusing the entire evidence discussed earlier I have unhesitatingly come to the conclusion that it is not proved in a satisfactory or convincing manner that the 'Om flag' was used as a symbol of the Arya Samaj or that an appeal for securing votes was made to it by the respondent No. 1 or by anybody on his behalf or with his consent. There was a group of Arya Samajists that was supporting the first respondent, but there was another group of the sect which was in favour of the petitioner. No person of either group could be expected to give up his creed or stop respecting the emblems revered by him simply because he was supporting a particular candidate.

There is no satisfactory evidence on the record to establish that the electors were asked to vote for the respondent No 1 or to refrain from voting for the other candidate on the ground of religion, or language. I am of opinion, that the petitioner has miserably failed to prove that any appeal on the ground of caste, creed or religion or language was made to the electors for the furtherance of the prospects of the respondent No 1 or in prejudicially affecting the election of the other candidates.

It has also been urged that a large number of posters were used on behalf of respondent No 1 during his election campaign and that constituted a corrupt practice. I regret I cannot accept this contention. Respondent No 1 has denied emphatically that he had anything to do with any one of those leaflets, pamphlets or posters. There is no satisfactory evidence on behalf of the petitioner to prove that respondent No 1 had any hand in getting them printed, published or circulated. There is some evidence on behalf of the petitioner to show that some of the pamphlets and notices were printed at the instance of Mahashe Bharat Singh, General Secretary of the Harijan Lok Samiti. But, that by itself, cannot be sufficient to fasten any liability upon the respondent No 1. Assuming, without deciding, that the leaflets and posters to which objection has been taken were issued or put into circulation by the Harijan Lok Samiti which was supporting the respondent No 1 as its candidate, unless it is proved further that the respondent No 1 adopted these leaflets or posters as his own or consented to that circulation or utilised them for his own benefit, the publication of the pamphlets cannot amount to a corrupt practice committed by or on behalf of the respondent No 1.

All these issues are decided against the petitioner.

#### Issue No 4

In view of the findings on issue No 3 it is not necessary to go into the question of the vires of sub-sections (3) and (3A) of section 123 of the Act.

#### Issue No 16

None of the allegations which form the subject matter of issues Nos 1 to 6 have been proved. This issue is, accordingly decided against the petitioner.

#### Issue No. 25

It is now well settled by the decision of the Supreme Court as well as by the High Courts in India that charges of corrupt practice are in the nature of criminal charges and that the standard of proof required is the standard applicable to criminal cases. The corrupt practices must be proved beyond any reasonable doubt. I have come to the conclusion that none of the corrupt practices alleged against the respondent No 1 has been proved and the petitioner is not entitled to any relief.

#### ORDER

This petition fails and is dismissed with costs.

Coming to the amount of costs to be awarded, the hearing of this case started on the 3rd September, 1962 and continued from day to day till 8th December, 1962 with a break of about a month. There have been 54 actual hearings in this case, including the dates on which issues were framed and preliminary objections were heard and decided. Shri Rameshwar Dial, Shri R. N. Mittal and Shri Rajinder Paul who have appeared for the respondent No 1 have filed fee certificates of Rs 3,500, Rs 2,398 and Rs 50 respectively. The respondent No 1 has further paid a sum of Rs 678/- as subsistence to the witnesses who appeared for him. Taking all these factors into consideration I fix the amount of costs at Rs 1,500 (rupees one thousand five hundred) which the respondent No 1 will be entitled to recover from the petitioner.

Sd/- S N SAHAI,  
20-12-62  
Member,  
Election Tribunal (I),  
Chandigarh (Punjab)

TRUE COPY  
S N SAHAI,  
Member,  
Election Tribunal (I),  
Chandigarh (Punjab)

## CORRIGENDUM

*New Delhi, the 31st December 1962*

**S.O. 56.**—In the Commission's notification No. 154/3/62/71220, dated the 16th November, 1962, delete the words "on leave" appearing therein.

[No. 154/3/62.]

By Order,

PRAKASH NARAIN, Secy.

*New Delhi, the 3rd January, 1963*

**S.O. 57.**—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order pronounced on the 26th December, 1962, (with annexure dated the 3rd December, 1962), by the Election Tribunal, Hoshangabad.

**IN THE COURT OF SHRI S. M. N. RAINA, DISTRICT AND SESSIONS JUDGE AND MEMBER, ELECTION TRIBUNAL, HOSHANGABAD, M.P.**

ELECTION PETITION NO. 322 OF 1962

Shri Om Prakash son of Pandit Ramsarup, 15-Dewan Hall, Chandni Chowk, Delhi.—*Petitioner.*

Versus.

Shrimati Maimuna Sultana, M.P. near Fire Brigade, Bhopal, Madhya Pradesh.—*Respondent.*

(COPY OF ORDER PASSED ON THIS 26TH DECEMBER, 1962)

This is an election petition under section 80 of the Representation of the People Act, 1951, calling in question the election of the respondent Shrimati Maimuna Sultana to the House of People from the Bhopal Loksabha Constituency at the last general elections held in February, 1962.

2. The petitioner was one of the candidates at the said election. The petition has been made mainly on the ground that the respondent has been guilty of certain corrupt practices committed by her personally or by her agents and workers with her consent and connivance as per details given in paragraphs 9 to 12 of the petition. The respondent denied these allegations and also raised a number of legal objections to the maintainability of the petition. Before fixing the petition for trial on merits, it was considered desirable to dispose of these legal objections and, therefore, preliminary issues were framed on 1st October, 1962, and findings thereon were recorded after hearing both the parties *vide my order dated 3rd December, 1962.*

3. In the said order, I have held that the petition is not properly verified and that the affidavit filed with the petition is not in the form prescribed by Rule 94-A, of the Conduct of Election Rules, 1961, (*vide paragraphs 20, 23 and 24 of the said order.*) It was contended on behalf of the respondent that the petition was liable to be thrown out in view of these defects. I rejected these contentions on the ground that these defects were curable and accordingly I gave the petitioner an opportunity to file a proper affidavit and also to apply for amendment of the verification clause of the petition and for this purpose nearly three weeks' time was given to the petitioner and the case was fixed for 24th December, 1962. The petitioner has, however, failed to file an affidavit as directed and has filed an application for extension of time for amendment of the petition as well as for filing the affidavit.

4. The first question for consideration, therefore, is if time should be extended. In this connection, it is pertinent to mention that the objections regarding the defective verification and the affidavit being not in proper form, were raised by the respondent in her written-statement (*vide paragraphs 11 to 13 and paragraph 38 of the written-statement*) which was filed on 18th June, 1962, that is nearly six months back. The petitioner had thus ample opportunity to remove

these defects much earlier but he did not do so. On the contrary, he contested the issues relating to these defects and ultimately after hearing both the sides, findings were given against the petitioner on 3rd December, 1962.

5. The only ground on which extension of time for filing the affidavit and amending the petition is sought is that the petitioner is lying ill at Delhi and, therefore, he could not come for swearing the affidavit. A medical certificate dated 13th December, 1962, has also been sent by post which is to the following effect:—

"Mr. Om Prakash Tyagi has a deep wound on his right skin and it is very painful to walk about. He can not travel till the wound has healed and this wound take about a month".

6. In the first place, I fail to see why it is necessary for the petitioner to travel all the way from Delhi to this place to file the affidavit. The petitioner is represented by a counsel who could very well send an affidavit in proper form to the petitioner at Delhi. It could be sworn there and then sent back to the counsel for being filed before this Tribunal. All this could very well be done within the time allowed to the respondent. The illness of the petitioner is not of such a character as to disable him from swearing an affidavit at Delhi and then sending it on to this Tribunal in time so that further progress of the petition may not be held up.

7. Moreover, it appears that the petitioner was quite hale and hearty at least for some days after the 3rd December, 1962, on which the aforesaid order was announced because the medical certificate is of the 13th December, 1962. During this period of 10 days, the petitioner could very well arrange to comply with the order if he were really diligent. In fact if we are to act on the medical certificate sent by the petitioner, it would mean that this Tribunal should wait until after the 13th January, 1963, before a proper affidavit can be filed and the verification clause duly amended.

8. Sub-section (6) of Section 90 of the Representation of the People Act, 1951, provides that every election petition shall be tried as expeditiously as possible and endeavour should be made to conclude the trial within six months from the date of publication of the copy of the petition in the gazette. In this case, the copy of the petition was published in the gazette on 12th May, 1962, and the trial should, therefore, ordinarily conclude by 12th November, 1962. The defects in question are such as are directly attributable to the negligence and carelessness of the petitioner and his reluctance to remedy them even after they were pointed out by the respondent, has got to be kept in view while considering the question whether further time should be granted to him. Thus, after a careful consideration of the entire circumstances of this case, I am of the opinion that there is no sufficient cause for granting any further time to the petitioner. The right of a member of a Loksabha to represent his constituency is a very important constitutional right and it cannot be kept in jeopardy indefinitely by such dilatory tactics. A person who calls in question such a right, must act with due diligence and this is what the law expects. The application for extension of time is, therefore, hereby rejected.

8. Now, the question that arises for consideration is whether the petition can continue in the absence of a proper affidavit. The proviso to sub-section (i) of the Section 83 of the Act lays down that where the petitioner alleges any corrupt practices, the petition shall be accompanied by an affidavit in the prescribed form in support of the allegations of such corrupt practice and particulars thereof. The only construction that can be put on this provision is that no allegation of corrupt practice can be inquired into unless there is an affidavit in support of it in the prescribed form. As the petitioner has failed to file a proper affidavit in support of the allegations of corrupt practices in the petition, I am of the opinion that they cannot be inquired into and must be ignored. I may here add that I have, in my order dated 3rd December, 1962, also held that the corrupt practice relating to undue influence as alleged in paragraph 9 of the petition cannot be inquired into on account of vagueness.

9. Thus, the result is that the petition becomes virtually devoid of a cause of action in as much as the only ground on which the election is challenged namely that of corrupt practices cannot be inquired into by this Tribunal for want of a proper affidavit. In A.I.R. 1954 Supreme Court 210 (*Jagan Nath v. Jaswant Singh and others*) it was held by their Lordships that the requirement of Election Law must be strictly observed. It was, further, held that the

success of a candidate who has won at an election, should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. As the petitioner has failed to fulfil the requirements of law even though reasonable opportunity was given to him to do so, the petition must fall.

10. The petition is accordingly dismissed with costs. Pleader's fee Rs 100, if certified. The petitioner shall pay the costs of the respondent.

Sd/- S N. RAINA,

District and Sessions Judge

and Member, Election Tribunal,

Hoshangabad M P

Dated the 26th December, 1962

#### SCHEDULE OF COSTS

Petitioner		Respondent
1. Stamp for power	1-00	2-00
2. Stamp for application	3-00	5 •••
3. Pleader's fee.	(@ -)	*100 0
@ Certificate not filed		*As per certificate
Total	4-00	107-00

Dated the 26th December, 1962

Sd/- S N RAINA,  
District and Sessions Judge and  
Member, Election Tribunal,  
Hoshangabad M P

#### ANNEXURE

IN THE COURT OF SHRI S. N. RAINA, DISTRICT AND SESSIONS JUDGE  
AND MEMBER, ELECTORAL TRIBUNAL, HOSHANGABAD, M P

ELECTION PETITION No 322 of 1962

Shri Om Prakash son of Pandit Ramsarup, 15-Dewan Hall, Gandhi Chowk,  
Delhi—Petitioner

#### Versus

Shrimati Maimuna Sultana, M P near Fire Brigade, Bhopal, Madhya Pradesh.—Respondent

#### COPY OF ORDER (PASSED ON THIS 3rd DECEMBER, 1962).

This is an election petition under section 80, of the Representation of the People Act, 1951, (hereinafter referred to as the Act), calling in question the election of the respondent Shrimati Maimuna Sultana to the Lok Sabha from the Bhopal Lok Sabha Constituency at the general elections held in February, 1962.

2. The petition has been made mainly on the ground that certain corrupt practices enumerated in the petition were committed by the respondent or by her agents and workers with her consent and connivance and, therefore, the election of the respondent should be declared void. The respondent has denied these allegations and at the same time raised certain preliminary objections to

the maintainability of the petition. As these objections relate purely to question of law, it was considered necessary to dispose them of first, before proceeding to try the case on merits. The following preliminary issues were, therefore, framed for determination:

<i>Issues</i>	<i>Findings</i>
1. (a) Are the Schedules A and B to the petition liable to be discarded as they are not signed and verified as required by sub-section (2) of the Section 83 of the Representation of the People Act, 1951?	Yes.
(b) If so, effect?	Vide para 9.
2. (a) Whether the petitioner has not furnished full particulars of the corrupt practices pleaded by him in paras 8 to 12?	Full particulars of corrupt practices pleaded in para 9 have not been furnished.
(b) If so, effect?	Vide para 19.
3. (a) Is the petition not properly verified as required by Order VI, Rule 15 of the Code of Civil Procedure read with Section 83(1)(c) of the Representation of the People Act?	No, it is not properly verified.
(b) If so, effect?	Vide para 22.
4. (a) Is the affidavit filed with the petition not in the form prescribed by Rule 94-A of the Conduct of Election Rules, 1961?	It is not in proper form.
(b) If so, is the petition not maintainable?	Vide para 26.
5. (a) Is the verification of the affidavit defective?	No.
(b) If so, effect?	Does not arise.
6. (a) Whether in view of the allegations against Dr. Shanker-dayal Sharma in the petition, he is a necessary party to this petition?	No.
(b) If so, is the petition liable to be dismissed under Section 90(3) of the Representation of the People Act?	Does not arise.
7. Is the petition barred by limitation?	No.

## REASONS FOR THE FINDINGS

3. Issue No. 1(a).—Attached to the petition are two documents which are referred to in the petition as schedules A and B. Schedule A is a poster in Urdu containing some matter in Arabic, condemning the Communists while Schedule B, is a printed pamphlet entitled *Bhopal Chunaw Darpan* which is said to contain aspersions on the personal character of the petitioner.

4. The contention of the respondent is that both these schedules should be discarded as they are not duly signed and verified as required by sub-section (2) of Section 83, of the Act. Schedule A bears only the following endorsement by the petitioner at the back, with his signature underneath it.

"Verified to be a true copy of a poster which was distributed."

Schedule B, on the other hand, merely bears an endorsement with his signature below it, to the effect "true copy".

5. Learned counsel for the petitioner, while conceding that both these schedules are not signed and verified as required by sub-section (2) of Section 83 of the Act, urged that both these schedules are the documents relied upon by the petitioner and should be treated as such for the purposes of this case even though they have been described by the petitioner as schedules and copies thereof were also supplied to the respondent treating them as such.

6. It appears to me that a schedule or an annexure to the petition as contemplated by sub-section (2) of Section 83 of the Act is a statement containing certain facts and figures in support of the allegations in the petition and as such, it requires to be duly signed and verified in the same manner as the petition itself. The proper course for the petitioner, therefore, was to reproduce in Schedule A and Schedule B, the offending portions of these documents duly translated in English as contents of documents published by the respondent or by her workers and agents with her consent and then to sign and verify both these schedules in the same manner as the petition. This has not been done and, therefore, both these schedules cannot be treated as schedules to the petition forming part of the petition itself. They have, therefore, to be discarded as schedules to the petition. Accordingly, I answer this issue in the affirmative.

7. Issue No. 1(b).—There is no provision in the Act which requires that there shall be a schedule or an annexure to the petition containing any particular matter. It, therefore, follows that if a petitioner is self-contained in all respects, the absence of a schedule or annexure is not going to make any difference. The learned counsel for the respondent, however, urged that since clause (b) of sub-section (1) of Section 83 requires that an election petition shall set forth full particulars of any corrupt practices that the petitioner alleges, the petition would be lacking in particulars of the corrupt practices referred to in paragraphs 10 and 11(b) of the petition, if we exclude both these schedules as part of the petition.

8. So far as the corrupt practice referred to in paragraph 10 is concerned, the particulars containing the offending matter in the poster are furnished at page 5 of the petition in a separate paragraph as under:

"The said poster in so far as it criticises the Communists as denying God, the holy prophets, the day of resurrection, etc., is an appeal on the ground of religion. References to verses from Muslim holy scriptures lend the appeal a religious halo. It contains a direct appeal to withhold all contact, co-operation and support on the ground of religion."

If the aforesaid paragraph were not there, I would readily agree with the learned counsel for the respondent that the petition is lacking in the necessary particulars, relating to this corrupt practice. But I think the aforesaid paragraph furnishes the necessary particulars inasmuch as it indicates in brief the contents of the offending poster.

9. Similarly, in respect of the allegations contained in paragraph 11(b), the contents of the offending bulletin *Bhopal Chunaw Darpan* are briefly mentioned in the first paragraph at page 7 of the petition which is to the following effect:—

"The said bulletin contains false aspersions on the personal character of the petitioner by imputing dishonourable conduct to him. It is also false in relation to his candidature in referring to an unholy pact between the Communists and the Hindu Mahasabha candidates. Its

publication was calculated to prejudice and it actually prejudiced the election prospects of the petitioner."

I am, therefore, not prepared to hold that by excluding the schedules A and B as forming part of the petition, the petition would be lacking in particulars relating to the corrupt practices referred to in paragraph 10 and 11 (b) of the petition and these corrupt practices should, therefore, be excluded from consideration. Thus, the only effect of these schedules being not properly signed and verified is that they cannot be treated as parts of the petition but merely as documents relied upon by the petitioner. I answer this issue accordingly.

10. Issue No. 2(a).—Before dealing with this issue, it would be desirable to state the law bearing on it. Clause (b) of sub-section (1) of Section 83 requires that an election petition shall set forth full particulars of the alleged corrupt practice including the names of the parties alleged to have committed such practice and the date and place of the commission of each such practice. Dealing with the question of particulars, their Lordships of the Supreme Court in (Harish-chandra Bajpai and another v., Triloki Singh and another) A.I.R. 1957 Supreme Court 444, observed at page 456 as under:—

"It should not be forgotten that charges of corrupt practices are quasi criminal in character and that the allegations relating thereto must be sufficiently clear and precise to bring home the charges to the candidates."

11. In (Shrimati Sarla Devi Pathak v., Birendrasingh Kiledar) 1961 M.P.L.J. 1361, their Lordships of our High Court emphasised the necessity of furnishing full particulars and quoted the following observations of their Lordships of the Supreme Court in (Bhikaji Késao Joshi v., B. N. Biyani) X.E.L.R. 357 at page 369:

"There can be no reasonable doubt that the requirement of 'full particulars' is one that has got to be complied with, with sufficient fullness and clarification so as to enable the opposite party fairly to meet them and that they must be such as not to turn the inquiry before the Tribunal into a rambling and roving inquisition."

Reference may here also be made to the following observations of their Lordships of the Nagpur High Court in (Hari Vishnu Kamath v., Election Tribunal and other) XIV E.L.R. 147:

"The use of particulars is intended to meet a further and quite separate requirement of pleading, imposed in fairness and justice to the defendant. Their function is to fill in the picture of the plaintiff's cause of action with information sufficiently detailed to put the defendant on his guard as to the case he has to meet and to enable him to prepare for trial."

It is, therefore, clear that an allegation of corrupt practice is more or less in the nature of a criminal charge and must be set forth with full particulars to enable the party charged to meet it.

12. I shall first deal with the corrupt practice set out in paragraph 9 of the petition. The allegation is that the respondent's husband Shri Mujtaba who was the Executive Officer of the Municipal Board, Bhopal at the material time, exercised undue influence on voters by showing or promising to show favour to them or by holding out threats of various kinds to take action against others. The allegation appears to be quite vague inasmuch as it does not specify as to which of the voters were subjected to undue influence, what favour was promised to be shown or what threat was given to them and on which date or at which place.

13. The allegation as it stands, enables the petitioner to produce any of the voters to say that he was subjected to undue influence at a particular time and place which is not specified in the petition. It is, therefore, extremely difficult for the respondent to meet such a charge. I, therefore, hold that the aforesaid allegation is vague and lacking in material particulars.

14. The next allegation is that Shri Mujtaba authorised his overseers to pay a sum of Rs. 60,000 towards payment of outstanding bills or as advances to contractors of the Board to influence their votes and to persuade them to canvass for the respondent against their employees and labour force and this was done contrary to rules without the requisite previous sanction of the Board by a resolution. In my opinion, this allegation is also vague and indefinite inasmuch as the

names of the overseers who were authorised to pay, the names of the contractors to whom the advances were to be made and the particulars of the bills in relation to which this corrupt practice was committed, are lacking. It is also not stated as to on which date and at which place this was done and whether the alleged payments or advances were actually made. The learned counsel for the respondent rightly pointed out that a single instance of the alleged corrupt practice, if proved, would disqualify the respondent and, therefore, it was but fair that the necessary particulars should be furnished to enable the respondent to meet the charge.

15. The learned counsel for the petitioner has, in this connection, urged that these are matters exclusively within the knowledge of the husband of the respondent and that he can ascertain the true position only from the respondent's husband himself by summoning him with the official records. This would mean that the petitioner has based his pleading on some vague information and proposes to utilise the process of the Court for fishing out evidence. This is not permissible. As observed by their Lordships of the Supreme Court in *Bhikaji Keshao v. B. N. Biyani* cited above that the allegations regarding corrupt practice must be such as not to turn the inquiry before the Tribunal into a rambling and roving incusition. At least the petitioner should be able to say which of the contractors was shown undue favour by being given a particular advance or payment of his bill which was contrary to rules for the purpose of influencing voters. In the absence of such information, it would be taking the respondent almost by surprise by putting up any particular contractor to say that he was given a particular advance for the purpose. I, therefore, hold that this allegation too is vague and indefinite.

16. The third allegation is that certain unauthorised persons, the poorer folk who had been in unlawful occupation of some land belonging to the Board, were served with notices on the eve of election and thereafter, the action thereon was suspended after the respondent's husband, acting through his subordinate staff, had successfully influenced the voters of the poorer folk. This allegation does not make it clear who ordered the issue of these notices and thereafter suspended the action thereon. The allegation against the respondent's husband is only to the effect that he through members of his subordinate staff had successfully influenced the voter of these poorer folk. It has not been stated who were the squatters benefitted by the suspension of the notices and which member or members of the subordinate staff influenced them. At least the names of some could be mentioned if not of all. The time and place at which the members of the subordinate staff influenced these voters have also not been mentioned. I, therefore, hold that this allegation is also vague and indefinite.

17. As regards allegations of corrupt practices in paragraph 11, the main objection of the learned counsel for the respondent was that if the two schedules attached to the petition are not treated as parts of the petition, the allegations in this paragraph will have to be deemed to be lacking in sufficient particulars. This point has already been considered by me above under issue No. 1 and I have held that even after excluding these two schedules from consideration, the allegations contained in this petition contain sufficient particulars of the alleged corrupt practice.

18. Coming now to the allegations contained in paragraph 12, I find that the numbers of the trucks and the vehicles used for carrying voters to the polling-stations and back have been given therein. It is no doubt true that the names of the persons who actually engaged them, have not been given but the allegations in this paragraph have to be read along with paragraph 8 in which it is stated that the hiring or procuring of vehicles for the conveyance of voters was arranged by the respondent herself or through her agents and workers with her consent and connivance. I am, therefore, inclined to hold that the allegations regarding this corrupt practice cannot be said to be lacking in sufficient particulars. I, therefore, find that only the corrupt practices alleged in paragraph 9 of the petition are lacking in sufficient particulars and answer the issue accordingly.

19. Issue No. 2(b).—In (*Hari Vishnu Kamath v. Election Tribunal, Jaipur and another*), XIV E.L.R. 147, it was held that if the Tribunal finds that a particular allegation is indefinite and vague it is entitled to say that it shall not form the subject-matter of the trial. Since I have held that sufficient particulars of the corrupt practice alleged in paragraph 9 of the petition have not been furnished, no issue can be struck in respect thereof and the pleadings relating thereto will be wholly excluded from consideration. I answer the issue accordingly. I

may add here that even though the respondent had objected to the vagueness of the allegations regarding the corrupt practices in question at the earliest opportunity and it was open to the petitioner to apply for amendment of the petition under sub-section (5) of Section 90 of the Act for the purpose of furnishing full particulars, he did not care to do so. His stand has been that the particulars furnished by him are sufficient and this has been held to be incorrect as regards the corrupt practices referred to in paragraph 9 of the petition.

20. *Issue No. 3(a).*—The verification clause at the end of the petition is as follows:

"Verified that the contents of the clauses (1) to (7) and (14) to (16) and (18) are correct to the best of my knowledge and clauses (8) to (13) and (17) are correct to the best of my belief, this 12th day of April, 1962, at Delhi."

Sub-rule (2) of Rule 15 of Order VI of the Code of Civil Procedure provides that the person verifying a pleading shall specify what he verifies of his own knowledge and what he verifies upon information received and believed to be true. The expression to the best of my belief in the verification clause at the end of the petition is not in conformity with the above requirement which is applicable to the election petitions as well by virtue of clause (c) of sub-section (1) of Section 83 of the Act. I, therefore, hold that the petition is not properly verified and answer the issue accordingly.

21. *Issue No. 3(b).*—A defective verification is, however, a mere irregularity and it can be set right at a later stage. The petition cannot be thrown out merely on this ground. It is pertinent to mention in this connection that Section 85 of the Act as it now stands insists on strict compliance of the provisions of Sections 81, 82 and 117 and provides that a petition shall be dismissed if the provisions thereof have not been complied with. It does not refer to Section 83 at all which provides for the verification of the petition. It is, therefore, clear that a petition cannot be dismissed merely on the ground of defective verification.

22. It may here be recalled that Section 85 of the Act before it was amended by the Act No. 27 of 1956, provided for the dismissal of the petition for non-compliance of the provisions of Section 83 which dealt *inter-alia* with the verification of the petition. Inspite of this clear provision, their Lordships of the Madras High Court in (*A.S. Sabbaraj v. M. Muthia and others*) A.I.R. 1954 Madras 336 held that it was not imperative to dismiss the election petition for defective verification. This position has now been made very clear by amending Section 85 and omitting any reference to Section 83 therein. I, therefore, hold that the petition is not liable to be dismissed on account of defective verification and answer the issue accordingly.

23. *Issue No. 4(a):*—It is quite obvious that the affidavit filed with the petition is not in the form prescribed by Rule 94A of the Conduct of Election Rules, 1961. In accordance with that form which was published in the Madhya Pradesh Extra-Ordinary Gazette dated 14th March, 1962 at page 458, there should have been a separate paragraph about each corrupt practice which should have been clearly specified in the affidavit. The affidavit attached to the petition is vague inasmuch as the word "etc." has been used after mentioning the corrupt practice of undue influence and care has not been taken even to make it clear that the paragraphs referred to in the affidavit relate to the petition itself.

24. I must say that care has not been taken to file a proper affidavit after referring to the form laid down in this behalf. I, therefore, hold that the affidavit filed with the petition is not in proper form and answer the issue accordingly.

25. *Issue No. 4(b):*—Learned counsel for the respondent was unable to show any authority for the view that a petition is liable to be dismissed on account of the defect in the accompanying affidavit. He merely urged that since the proviso to sub-section (1) of Section 83 requires that where the petitioner alleges any corrupt practice, the petition shall be accompanied by an affidavit in the prescribed form, a contravention of this provision should entail dismissal of the petition or at least striking out of these allegations of corrupt practices. Section 85 of the Act, however, provides that a petition may be dismissed if the provisions of Section 81 and 82 or Section 117 are not complied with. It does not refer to Section 83 of the Act. It therefore, follows that a contravention of any of the provisions of Section 83 of the Act is a mere irregularity which can be subsequently cured.

26. In (*Jagan Nath v. Jaswani Singh and others*) A.I.R. 1954 Supreme Court 210 at page 212, while affirming the general rule that the statutory requirements of Election Law must be strictly observed, it was held that where the Election Law does not prescribe the consequence or does not lay down penalty for non-compliance with certain procedural requirements of the law, the jurisdiction of the Tribunal is not affected. In other words, the trial must proceed. I, therefore, hold that the petition is not liable to be dismissed merely on the ground that the affidavit is not in proper form and I answer the issue accordingly. I am, however, of the view that the petitioner should file a proper affidavit before these allegations can be enquired into.

27. *Issue No. 5(a):*—The statements in the affidavit have been verified as true to the information of the petitioner. In the prescribed form also, it is made clear that the statements made therein may be verified as either true to personal knowledge or as true to personal information. I, therefore, hold that the verification of the affidavit cannot be said to be defective. Accordingly, I answer this issue in the negative.

28. *Issue No. 5(b):*—Finding on this issue does not arise in view of the finding on issue No. 5 (a).

29. *Issue No. 6(a):*—The main contention of the respondent is that Dr. Shankerdayal Sharma is a necessary party to the petition in view of the provisions of clause (b) of section 82 of the Act which is to the following effect:

“(b) Any other candidate against whom allegations of any corrupt practice are made in the petition.”

There are allegations of corrupt practice against Dr. Shankerdayal Sharma and, therefore, the only question for consideration is whether he falls within the expression “any other candidate” in this clause.

30. The argument advanced on behalf of the respondent is as follows. Since the word “candidate” has been defined in clause (b) of Section 79 of the Act as a person who has been or claims to have been duly nominated as a candidate at any election and the word “election” as defined in clause (d) of Section 2 of the Act means an election to fill a seat or seats in either house of Parliament or in the house or either House of a Legislature of a State. Dr. Shankerdayal Sharma should be deemed to fall within the purview of the expression “any other candidate” in as much as he was a candidate in the last general elections for a seat in the Madhya Pradesh Vidhan-Sabha and was duly returned.

31. In support of his arguments, the learned counsel for the respondent has cited the decision of the Election Tribunal, Aligarh in (*Nardeo v. Jyoti Swaroop and others*) decided on 21st September 1962, a certified copy of which has been filed. I have carefully gone through that order but I must confess with great respect to the learned Member who decided that case that I am unable to persuade myself to agree with him. In my opinion, the expression “any other candidate” means any candidate at the election which is sought to be challenged by the petitioner. Both Section 2 and Section 79 of the Act which define the words “election” and “candidate” respectively make it clear that in construing the provisions of the Act, the definitions given therein are to be adopted unless the context otherwise requires. It would, therefore, be wrong to ignore the context while making use of these definitions.

32. If we do not restrict the word “candidate” to the election sought to be challenged, the expression “any other candidate” would bring within its purview not only candidates at the last general elections held in any part of India but also those who were candidates at previous bye-elections or general elections in any part of India, for a seat in any State Legislature or in either house of Parliament. Such a wide construction appears to be, on the face of it, unjustified and unreasonable.

33. I now proceed to consider two High Court rulings relied upon by the respondent in this connection. In (*Baburao v. M. S. Aney*) XXII E.L.R. 321, it was held by their Lordships of the Bombay High Court that for the purposes of Section 82 (b), a candidate who has withdrawn his candidature under section 37 is still a candidate and, while considering this question, their Lordships observed at page 333 that the words “any other candidate” occurring in clause (b) were unqualified and should, therefore, be liberally construed. These observations should, however, be read in the context they were made. Their Lordships had no occasion to consider in that case whether a person who was a candidate at any election other than the election sought to be challenged also falls within the purview of clause

servations of the Allahabad High Court at page 305 in (b) of Section 82. The ob~~un~~unal, Kanpur and another) 15 E.L.R. 301 were also (Chaturbhuj v. Election Trib. made in a similar context.

Therefore, in my humble opinion no authority for 34. Both these decisions are, that "her candidate" includes any candidate at any the view that the expression "any o~~n~~ was not a candidate at the election sought election at any time. Since Dr. Sharm~~a~~ come within the purview of clause (b) of to be challenged, I hold that he does not belong to any party to this petition. Accordingly, Section 82 and is, therefore, not a necessary. I answer issue 6 (a) in the negative.

issue no. 6(a), the finding on this 35. Issue No. 6(b):—In view of the finding on issue does not arise.

the election was announced 36. Issue No. 7:—It is not disputed that the result on is that the last date for on 28th February 1962. The contention of the petitioner is that the office of the Commission the presentation of the petition was the 14th of April. A second Saturday and mission was closed on the 14th and 15th April, 14th being and was, therefore, 15th being Sunday, the petition was presented on the 16th, argued that the within time. The learned counsel for the respondent has, however. His first competition should be held to be barred by limitation for two reasons, by Section 81. contention is that in order to compute the period of 45 days prescribed should not be excluded of the Act, the date of the election of the returned candidate should section 81 excluded. I am, however, not impressed by this argument. Since under election, of the Act, the period of 45 days is to be counted from the date of the that date must be excluded in accordance with the provisions of Section 9. General Clauses Act.

37. It was, further urged by the learned counsel for the respondent that Section 10 of the General Clauses Act is not applicable to the present case because the petition is to be presented to the Secretary to the Commission or any other person appointed by the Election Commission in this behalf and not in the office of the Commission. The argument appeared to be very persuasive at the first impression but from the language of Section 10 it is clear that it applies not only to any act or proceeding which is directed to be done in any office but also to an act or proceeding which is allowed to be done in any office. It is clear that under sub-section (2) of Section 81 of the Act, a petition may be delivered to the Secretary to the Commission or to some other officer appointed in this behalf in the office of the Commission. I, therefore, hold that section 10 of the Act is applicable to the present case. I am fortified in this view by a recent decision of the Patna High Court in (Kapildeo Singh v. Suraj Narayan Singh and others) A.I.R. 1959 Patna 250 wherein it was held that a petition which is to be presented on a day on which the office of the Commission is closed, will be treated as presented within time if it is presented on the day on which the office opens. I, therefore, hold that the petition is not barred by time. Accordingly, I answer this issue in the negative.

38. One more point was raised before me during arguments. It was urged that the petitioner failed to comply with sub-section (3) of Section 81 of the Act in as much as the copy of the affidavit which has been supplied to the respondent does not bear the endorsement about its being sworn before the Oath Commissioner. The respondent has also filed the copy of the affidavit furnished to him. This copy, no doubt, does not bear the copy of the endorsement made by the Oath Commissioner, on the affidavit but in my view this is a defect of a minor character, not affecting the trial of the petition. Sub-section (3) of Section 81 requires only copies of the petition duly attested by the petitioner to be furnished. It makes no mention of the affidavit to be filed along with the petition. A defect in the copy of the affidavit cannot, therefore, be treated as a contravention of this provision.

39. In view of the findings recorded above, I hereby direct that the petition shall be tried on merits, according to law, subject, however, to the following conditions:

- (i) No issue will be framed in respect of the allegations contained in paragraph 9 of the petition.
- (ii) The petitioner shall file a proper affidavit in the form prescribed by Rule 94-A of the Conduct of Election Rules, 1961, in respect of his allegations of corrupt practices.

(iii) The petitioner shall suitably amend the verification clause of the petition, by making an application in this behalf.

3-12-1962.

Sd/- S. N. RAINA,  
District & Sessions Judge & Member,  
Election Tribunal, Hoshangabad.

[No. 82/322/62.]

By order,

K. S. RAJAGOPALAN, Under Secy.

### MINISTRY OF HOME AFFAIRS

New Delhi, the 5th January 1963

**S.O. 58.**—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1955, namely:—

1. These rules may be called the Central Civil Services (Conduct), First Amendment Rules, 1963.

2. In the Central Civil Services (Conduct) Rules, 1955, after rule 18 the following rule shall be inserted, namely:—

“18-A. *Drinking.*—Subject to the provisions of any law relating to intoxicating drinks or drugs for the time being in force in any area, no Government servant shall—

(a) while on duty, be under the influence of such drinks or drugs to such an extent as to render him incapable of discharging his duty properly and efficiently; or

(b) appear in a public place in a state of intoxication; or

(c) habitually use such drinks or drugs to excess.”

[No. 25/53/61-Ests(A).]

B. D. JAYAL, Dy. Secy.

New Delhi, the 6th January 1963

**S.O. 59.**—In pursuance of the Explanation to section 25 of the Negotiable Instruments Act, 1881 (26 of 1881), the Central Government hereby declares Thursday, the 17th day of January 1963, to be public holiday throughout India in commemoration of the centennial anniversary of the birthday of Swami Vivekananda.

[No. 20/80/62-Pub.I.]

FATEH SINGH, Jt. Secy.

### CORRIGENDUM

New Delhi, the 5th January 1963

**S.O. 60.**—In the notification of the Government of India in the Ministry of Home Affairs No. F. 2/8/62-Judl.II, dated the 27th November, 1962 published as S.O. 3567 at page 3908 of the Gazette of India, Part II, Section 3, Sub-section (ii), dated December 1, 1962/Agrahayana 10, 1884 in line 37, in the said page, for “section 148” read “section 14B”.

[No. F. 2/8/62-Judl.II.]

P. N. KAUL, Dy. Secy.

**MINISTRY OF FINANCE****(Department of Expenditure)***New Delhi, the 3rd January, 1963*

**S.O. 61.**—In exercise of the powers conferred by the proviso to article 309, of the Constitution, the President hereby makes the following rules further to amend the Central Cost Accounts Pool (Recruitment and Conditions of Service)\* Rules, 1961, published with the notification of the Government of India in the Ministry of Finance No. 3G(13)-E.I(A)/58, dated the 9th August, 1961, namely:

1. These rules may be called the Central Cost Accounts Pool (Recruitment and Conditions of Service) First Amendment Rules, 1963.
- 2 In the Central Cost Accounts Pool (Recruitment and Conditions of Service) Rules, 1961, in the proviso to rule 3, after the words "Department of Expenditure, may" the words "in consultation with the Union Public Service Commission," shall be inserted

[No. F. 2(15)-E.I(A)/62.]

K. P. SIRCAR, Dy. Secy.

\*These rules were last amended vide S.O. 3570 dated 23rd November, 1962, published in the Gazette of India dated the 1st December, 1962.

## (Department of Economic Affairs)

New Delhi, the 4th January 1963

S. O. 62—Statement of the Affairs of the Reserve Bank of India, as on the 28th December 1962  
BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up . . . . .	5,00,00,000	Notes	27,97,14,000
Reserve Fund . . . . .	50,00,00,000	Rupee Coin . . . . .	2,75,000
National Agricultural Credit (Long Term Operations) Fund . . . . .	61,60,00,000	Small Coin . . . . .	3,65,000
National Agricultural Credit (Stabilisation) Fund . . . . .	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund—	
Deposits:—		(a) Loans and Advances to:—	
(a) Government		(i) State Governments . . . . .	23,94,76,000
(i) Central Government . . . . .	53,28,04,000	(ii) State Co-operative Banks . . . . .	11,39,76,000
(ii) State Governments . . . . .	6,11,75,000	(iii) Central Land Mortgage Banks . . . . .	
(b) Banks		(b) Investment in Central Land Mortgage Bank Debentures . . . . .	2,84,88,000
(i) Scheduled Banks . . . . .	81,18,30,000	National Agricultural Credit (Stabilisation) Fund—	
(ii) State Co-operative Banks . . . . .	2,52,48,000	Loans and Advances to State Co-operative Banks . . . . .	
(iii) Other Banks . . . . .	6,16,000	Bills purchased and Discounted:—	
(c) Others . . . . .	160,90,24,000	(a) Internal . . . . .	
Bills Payable . . . . .	38,41,28,000	(b) External . . . . .	
Other Liabilities . . . . .	42,42,42,000	(c) Government Treasury Bills . . . . .	72,37,31,000
Rupees . . . . .	537,90,67,000	Balances Held Abroad* . . . . .	8,70,08,000
		Loans and Advances to Governments**	16,37,73,000
		Loans and Advances to:—	
		(i) Scheduled Banks† . . . . .	20,69,95,000
		(ii) State Co-operative Banks†† . . . . .	138,09,18,000
		(iii) Others . . . . .	140,57,000
		Investments . . . . .	181,02,39,000
		Other Assets . . . . .	33,01,52,000
			537,90,67,000

\*Includes Cash and Short-term Securities.

\*\*Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 13,66,00,000 advanced to scheduled banks against usance bills under section 17(4)(c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 2nd day of January, 1963

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 6th day of December, 1962.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department		27,97,14,000	Gold Coin and Bullion :—		
Notes in circulation		2120,28,49,000	(a) Held in India	117,76,10,000	
Total Notes issued		2148,25,63,000	(b) Held outside India	..	
TOTAL LIABILITIES	2148,25,63,000		Foreign Securities	88,08,43,000	
			TOTAL		203,84,53,000
			Rupee Coin		123,97,50,000
			Government of India Rupee Securities		1818,43,60,000
			Internal Bills of Exchange and other commercial paper		..
			TOTAL ASSETS		2148,25,63,000

Dated the 6th day of January, 1963.

P. C. BHATTACHARYYA,  
Governor

[No. F. 3(2)-BC/62.]

A. BAKSI, Joint Secy.

## (Department of Revenue)

## INCOME-TAX

*New Delhi, the 2nd January 1963*

**S.O. 63.**—In exercise of the powers conferred by sub-clause (iii) of clause (44) of section 2 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby authorises Shri Badal Krishna Choudhury, a Gazetted Officer of the State Government of West Bengal, appointed to exercise the powers of a Certificate-officer under clause (3) of section 3 of the Bengal Demands Recovery Act, 1913 (Bengal Act III of 1913) in respect of the District of Midnapore, to perform the functions of a Tax Recovery Officer under the Income-tax Act, 1961.

[No. 16/1/63-IT.]

(Sd.) Illegible, Addl. Secy.

## CENTRAL BOARD OF REVENUE

## INCOME-TAX

*New Delhi, the 1st January 1963*

**S.O. 64.**—In exercise of the powers conferred by sub-section (1) of Section 121 of the Income-tax Act, 1961 (43 of 1961) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from 3rd December 1962 (fore-noon) Shri H. A. Shah, a Commissioner of Income-tax shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the States of Punjab, Jammu & Kashmir and the Union Territory of Himachal Pradesh:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax Authority outside his jurisdictional area.

While performing the said functions the said Shri Shah shall be designated as the Commissioner of Income-tax, Punjab, Jammu & Kashmir and Himachal Pradesh with headquarters at Patiala.

## Explanatory Note

**NOTE.**—The amendments have become necessary on account of the change in the incumbent of the Commissioner's charge.

(The above note does not form a part of the notification but is intended to be merely clarificatory.)

[No. 1 (F. No. 55/1/62-IT).]

*New Delhi, the 5th January 1963*

**S.O. 65.**—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961) and in supersession of all previous notifications in this regard, the Central Board of Revenue hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in column 1 of the schedule below shall perform their functions in respect of all persons and incomes assessed to income-tax or super-tax in the Income-tax

Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:—

SCHEDULE

Range 1	Income-tax Circles, Wards and Districts 2
'A' Range, Hyderabad	<ol style="list-style-type: none"> <li>1. 'A' Ward, Hyderabad.</li> <li>2. 'C' Ward, Hyderabad.</li> <li>3. Income-tax-cum-Wealth circle No. I, Hyderabad. Tax</li> <li>4. Income-tax-cum-Wealth circle No. III, Hyderabad. Tax</li> <li>5. Chittoor.</li> <li>6. Tirupati.</li> <li>7. Cuddapah.</li> <li>8. Anantapur.</li> <li>9. Eluru.</li> <li>10. Tenali.</li> <li>11. Bapatla.</li> </ol>
'B' Range, Hyderabad	<ol style="list-style-type: none"> <li>1. B-Ward, Hyderabad.</li> <li>2. Income-tax-cum-Wealth circle No. II, Hyderabad. Tax</li> <li>3. Special Investigation circle, Hyderabad.</li> <li>4. Special Survey Circle, Hyderabad.</li> <li>5. Salary Circle, Hyderabad.</li> <li>6. Adoni.</li> <li>7. Kurnool.</li> <li>8. Nizamabad.</li> <li>9. Khammameth.</li> <li>10. Warrangal.</li> <li>11. Mahaboobnagar.</li> <li>12. Companies Circle, Hyderabad.</li> </ol>
Visakhapatnam.	<ol style="list-style-type: none"> <li>1. Srikakulam.</li> <li>2. Vizianagaram.</li> <li>3. Visakhapatnam.</li> <li>4. Kakinada.</li> <li>5. Rajahmundry.</li> </ol>
Vijayawada.	<ol style="list-style-type: none"> <li>1. Vijayawada.</li> <li>2. Masulipatam.</li> <li>3. Guntur.</li> <li>4. Nellore.</li> <li>5. Gudur.</li> <li>6. Palakole.</li> </ol>

Where an Income-tax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Range from whom that Income-tax Circle, Ward or District or part thereof is transferred shall, from the date this notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

The Notification shall have effect from 15th January 1963.

*Explanatory Note*

The amendments have become necessary on account of re-organisation of the Appellate Ranges in the Commissioner's charge.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 2 (F. No. 50/1/62-IT).]

J. RAMA IYER, Under Secy.

## INCOME-TAX

New Delhi, the 2nd January 1963

**S.O. 66.**—In exercise of the powers conferred by Rule 6 of the Income Tax (Certificate Proceedings) Rules, 1962, the Central Board of Revenue hereby directs that Shri Badal Krisna Choudhury, who has been authorised to exercise the powers of a Tax Recovery Officer under the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 16/1/63-IT, dated 2nd January 1963, shall exercise jurisdiction as Tax Recovery Officer in respect of the District of Midnapore.

[No. 16/1/63-IT.]

D. SUBRAMANIAN, Secy.

## CUSTOMS

New Delhi, the 12th January 1963

**S.O. 67.**—In exercise of the powers conferred by clauses (c) and (d) of section 11 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following amendments in its notification No. 27-Customs, dated the 12th July 1930, namely:—

In the Schedule annexed to the said notification, after the entry relating to wharf No. 5 of the port of Tellicherry, the following entries shall be inserted, namely:—

Name of the port	No. of Wharf	Name of the owner	Limits of the Wharf	Particular of class of goods to be dealt with	The manner of dealing with them
“Tellicherry . . .	6	Mayilakara Khadisa Hayjuma	The fore-shore 190' along the bank of Mahe-river located at Cherukallai, New Mahe, Opposite to Kallapalli, an ancient mosque and adjacent to old Custom House.	Coconuts, planks and Timbers.	Landing and shipping.
Do.	6A	Khan Bahadur C. K. Mammo Koya	The fore-shore 160' long along the bank of Mahen river at Cherukallai, East of Wharf No. 6.	Do.	Do.
Do.	6B	Kommath Ayshu	The fore-shore 280' long on the bank of a small canal upto the junction of Mahe-river with canal at Peringadi, East of Wharf No. 6A.	Do.	Do.
Do.	6C	V. P. Mohamed Jameela	Land measuring 80' long on the side of an irregularly shaped pool on the bank of river Mahe at Peringadi Kadavu Sthanom, East of Wharf No. 6B.	Do.	Do.”

[No. 10.]

M. G. VAIDYA, Under Secy.

**OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, PATNA****TRADE NOTICE***Patna, the 24th November 1962*

**SUBJECT:**—*Power looms—Exemption from duty—Question whether looms in excess of 4 should be dismantled or merely scaled for the purpose of—*

**S.O. 68.**—A reference is invited to Government of India's Notification No. CER/8/28/56-Central Excise, dated 5th January, 1957 as amended by notification No. 22/62, Central Excise, dated 24th April, 1962 requiring the manufacturers not to have more than 4 looms installed in these units for the purpose of exemption from duty and the looms in excess of 4 to be dismantled.

It has been decided that in case any manufacturer desires to enjoy the concession of exemption from duty, he should get the looms in excess of 4 (four) dismantled.

[No. 66/56-MP/62.]

**A. R. SHANMUGAM, Collector.**

**CENTRAL EXCISE COLLECTORATE, POONA***Poona, the 28th December 1962*

**S.O. 69.**—In exercise of the powers conferred upon me under Rules 143 and 233 of the Central Excise Rules, 1944, and in supersession of the Collectorate Notification No. CER-6/62, dated 16th March, 1962, I issue the following supplementary instructions which shall be observed by the Warhouse licensee:—

- (i) No deliberate crushing of flakes or Rawa into dust will be allowed in the warehouse at the non-duty paid stage and the tariff category "Dust" will be applied for the assessment of dust which is only incidental to the normal processing.
- (ii) Percentage of dust recoverable on normal separation from different varieties of biri flakes should not exceed the maximum percentage prescribed in the Annexure 'B' enclosed to the Notification.
- (iii) For the purposes of this Notification tobacco capable of passing through a sieve having not less than 25 uniform apertures per linear inch and made of 27 S.W.G. wire having a diameter of 0.0164" equivalent to 0.417 mm. (as required for I.S. Sieve No. 60) will be treated as dust.
- (iv) A licensee who desires to separate dust from Biri flakes shall apply to the proper officer for such separation in the form 'A' annexed to this Notification.
- (v) Such application shall be submitted in duplicate.
- (vi) In addition to the other information that may be required the licensee shall specify the estimated percentage of dust obtainable on separation from Biri flakes.
- (vii) In case the estimated percentage of dust as declared in the application by the licensee exceeds the maximum percentage prescribed in the Annexure 'B' the permission for separation shall be refused.
- (viii) If the percentage of dust obtainable is within the permissible limit specified in the Annexure 'B' the proper officer will allow separation of dust.
- (ix) On completion of separation of dust from the Biri flakes the licensee will intimate in writing the completion of separation to the proper officer who will examine the results and on his satisfaction admit the same.
- (x) Separation of dust from the Biri flakes in respect of each particular lot will be allowed only once. No request for subsequent separation will be allowed.

## FORM 'A'

*Form of Application for Separation of Dust from Flakes.*

(To be submitted in duplicate)

(1) I/We L.S No. \_\_\_\_\_ of \_\_\_\_\_ desire to separate dust from flake tobacco of \_\_\_\_\_ Ghari.

(2) I/We \_\_\_\_\_ undertake to abide by the conditions laid down in the Notification No. CER/ 196 , dated 196

*Signature of licensee or his authorised Agent.**Place :**Dated :*

Lot No.	Description	No. of packages	Quantity in Kgs.	D.F.W.	No. of TP 2/ under which re- warehoused/ warehoused	Value	Duty	Particulars of previous processing if any & the % of dust obtained	Estimated % of dust to be obtained on separation	Remarks
1	2	3	4	5	6	7	8	9	10	11

Permission for separation allowed.

OR

Permission for separation refused on the following grounds.

*Signature of Officer.*

**ANNEXURE 'B'**

The maximum percentage of dust normally obtained during the course of separation of dust from Biri flakes.

Sl. No.	Description	Percentage	Remarks
1.	Five to Ten Ghari Flakes . . . . .	3%	
2.	Eleven to 18 Ghari . . . . .	8%	

[No. CER/14/62.]

B. D. DESHMUKH, Collector.

**COLLECTOR OF CENTRAL EXCISE & LAND CUSTOMS, DELHI****CENTRAL EXCISES***New Delhi, the 4th January 1963*

**S.O. 70.**—In pursuance of Rule 5 of Central Excise Rules, 1944, I hereby authorise the Central Excise Officers not below the rank specified in column (1) of the following table to exercise within their respective jurisdictions, the powers of "Collector" conferred by the provisions of rules as enumerated in column (2) of the table, subject to the limitations, set out in column (3) thereof:—

**TABLE**

Rank of Officer	Central Excise Rules	Limitations if any
1	2	3
Superintendent	96-Y(1)	To accept first A.S.P. application for full period for which special procedure can be availed of.
Superintendent	96-Y(2)	To accept first A.S.P. application for a period less than the prescribed period.
Superintendent	96-Y(4)	(a) To accept renewal applications in form A.S.P.
Superintendent	96-Y(4)	(b) To condone delay not exceeding 15 days in submission of A.S.P. application for renewal.
Superintendent	96-Z(2)	To condone delay not exceeding 5 days in submission of application for renewal in form A.R. 6 and monthly deposits.

1

2

3

Assistant Collector	96-Y(3)	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him.
Assistant Collector	96-Y(4)b.	To condone delay exceeding 15 days in submission of A.S.P. application for renewal.
Assistant Collector	96-Z(2)	To condone delay exceeding 5 days in submission of application for removal in form A.R. 6 and monthly deposits.
Assistant Collector	96-ZZZ(i)	To demand duty at full rate.
Assistant Collector	96-ZZZ(iii)	To debar a manufacturer from availing of special procedure.
Adjudicating Officer	96-ZZZ(ii)	Adjudicating officer can confiscate the goods in accordance with their normal limits of powers.
Adjudicating Officer	96-ZZZ(iv)	Adjudicating officer can impose penalty not exceeding Rs. 2,000/- in accordance with their normal limits of power.

**N.B.—**The discretionary powers referred to in Rule 96-ZZZZ shall remain with the Collector and are not to be exercised by any officer subordinate to the Collector.

[No. 9/1962.]

K. NARASIMHAN, Collector.

### MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 2nd January 1963

**S.O. 71.**—The Central Government, having considered in consultation with the Forward Markets Commission, the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Spices and Oilseeds Exchange Limited, Wakhar Bhag, Sangli, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a further period of three years from the 14th January, 1963 upto the 18th January, 1966 both days inclusive, in respect of forward contracts in groundnut.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(20)-TMP/FMC/62.]

**S.O. 72.**—The Central Government, having considered, in consultation with the Forward Markets Commission, the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Indian Exchange Limited, Amritsar, and being satisfied that it

would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a further period from the 12th January, 1963 upto the 10th November, 1964 both days inclusive, in respect of forward contracts in cotton-seed.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(21)-TMP/FMC/62.]

*New Delhi, the 7th January 1963*

**S.O. 73.**—In exercise of the powers conferred by section 28 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby makes the following rules further to amend the Forward Contracts (Regulation) Rules, 1954, namely:—

1. These rules may be called the Forward Contracts (Regulation) Amendment Rules, 1963.

2. In the Forward Contracts (Regulation) Rules, 1954, hereinafter referred to as the said rules, rule 8A shall be omitted.

3. In form E appended to the said rules in paragraph 1, the words and figures "for ..... year/years ending ..... 196 ..... /on a permanent basis" shall be omitted.

4. In form F appended to the said rules in paragraph 1, the words and figures "for ..... year/years ending ..... 196 ..... /on a permanent basis" shall be omitted.

[No. 35(3)-TMP/FMC/62.]

M. L. GUPTA, Under Secy.

---

#### ORDER

*New Delhi, the 3rd January 1963*

**S.O. 74/IDRA/6/13.**—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rule 5(1) of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Dr. K. J. Balakrishna to be a member, till the 25th October, 1964, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 3294, dated the 26th October, 1962, for the scheduled industries engaged in the manufacture or production of Oils, Paints, Soaps, Cosmetics and Toiletries and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, after entry No. 29 relating to Shri F. G. T. Menezes, the following entry shall be inserted, namely:—

"30. Dr. K. J. Balakrishna,  
Senior Research Officer,  
Defence Research Laboratory (Stores),  
Kanpur.

[No. 1(7)/L.Pr./62.]

S. P. KRISHNAMURTHY, Under Secy.

**ORDER****EXPORT TRADE CONTROL***New Delhi, the 12th January 1963*

**S.O. 75.**—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (16 of 1947), the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In clause 10 of the said Order, in sub-clauses (g) and (h) for the words "except Nepal, Tibet, Bhutan and Portuguese possession in India" the words "except Nepal, Tibet and Bhutan" shall be substituted.

[No. 2A/7/62-Export.]

A. B. GOKHALE, Under Secy.

(Office of the Dy. Chief Controller of Imports &amp; Exports)

(Central Licensing Area)

**NOTICE**

**S.O. 76.**—It is hereby notified that in exercise of the powers conferred by Clause 9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the four import licences Nos. A 662795/61/AU/D dt. 31st March 1962 valued at Rs. 6000 for import of Raw Materials for Clocks, A 662796/61/AU/D dt. 31st March 1962 valued at Rs. 3000 for import of Parts of Clocks, A 662793/61/AU/D dt. 31st March 1962 valued at Rs. 18,000 for import of materials for Time Pieces and A 662794/61/AU/D dt. 31st March 1962 valued at Rs. 18000 for import of Parts of Time Pieces from G.A. except Union of South Africa and South West Africa, granted by the Deputy Chief Controller of Imports and Exports (Central Licensing Area), New Delhi to M/s. Tarna Watch Co., Mandi, Himachal Pradesh, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports & Exports (Central Licensing Area) New Delhi within ten days of the date of issue of this notice by the said M/s. Tarna Watch Co., Mandi, Himachal Pradesh or any Bank, or any other party who may be interested in it.

2. The grounds of the proposed cancellation of the licences in question, is that Director of Industries, Himachal Pradesh has intimated that one of its partners has lodged a complaint against the firm and that the *bona fides* of this concern now appears to be doubtful.

3. In view of what is stated above, M/s. Tarna Watch Co., Mandi Himachal Pradesh or any Bank or any other party who may be interested in the said four licences Nos. A 662795/61 dt. 31st March 1962, A 662793/61 dt. 31st March 1962, A 662796/61 dt. 31st March 1962 and A 662714/61 dt. 31st March 1962 are hereby directed not to enter into any commitments against the said licences and return the same immediately to the Deputy Chief Controller of Imports and Exports (Central Licensing Area) Janpath Barracks 'B', New Delhi.

[No. NCCI.I(CLA)/300/62.]

RAM MURTI SHARMA,

Dy. Chief Controller  
of Imports & Exports.

(Indian Standards Institution)

*New Delhi, the 31st December 1962*

**S.O. 77.**—In partial modification of the rate of marking fee for Cotton Covered High Conductivity Annealed Round Copper Wire, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.R.O. 3539 dated the 21st November 1955, published in the Gazette of India, Part II, Section 3, dated the 26th November 1955, the Indian Standards

Institution hereby notifies that the marking fee per unit for Cotton Covered High Conductivity Annealed Round Copper Wire, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with immediate effect.

#### THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of relevant Indian Standard	Unit	Marking Fee per Unit
i	Cotton Covered High Conductivity Annealed Round Copper Wire.	IS : 450-1953 Specification for Cotton Covered High Conductivity Annealed Round Copper Wire.	One Metric Tonne	Rs. 5.00

[No. MD/18:2.]

**S.O. 78.**—In partial modification of the rate of marking fee for Salt Glazed Stoneware Pipes and Fittings, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 2607 dated the 18th October 1960, published in the Gazette of India, Part II Section 3, Sub-section (ii), dated the 29th October 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for Salt Glazed Stoneware Pipes and Fittings, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with immediate effect.

#### THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of relevant Indian Standard	Unit	Marking Fee per unit
i	Salt Glazed Stoneware Pipes and Fittings.	IS 651-1962 Specification for Salt Glazed Stoneware Pipes and Fittings (Revised).	One Metric Tonne	50 nP per unit with a minimum of Rs. 1,000.00 for production during a calendar year.

[No. MD/18:2.]

**S.O. 79.**—In partial modification of the Standard Mark, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 2610 dated the 18th October 1960 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 29th October 1960, the Indian Standards Institution hereby notifies that the Standard Mark for Salt Glazed Stoneware Pipes and Fittings, designs of which together with the verbal description of the designs and the title of the relevant Indian Standard is given in the schedule hereto annexed, has been revised.

This Standard Mark for the purpose of Indian Standards Institution (Certification Marks) Act 1952, as amended in 1961 and the Rules and Regulation framed thereunder, shall come into force with effect from 15 January 1963.

## THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Products	No. and Title of the Relevant Indian Standard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
I	IS:651 	Salt Glazed Stone- ware Pipes and Fittings.	IS:651-1962 Speci- fication for Salt Glazed Stoneware Pipes and Fittings (Revised)	The monogram of the Indian Standards Institution con- sisting of letters ISI, drawn in the exact style and relative proportions as Indicated in Col. (2) the number designation of the Indian Standard being superscribed on the top side of the monogram and the relevant grades de- signation being sub- scribed under the bottom side of the monogram as indicated in the designs.
	IS:651 			

[No. MD/17:2]

**S. O. 80.**—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952, as amended in 1961, and the rules and regulations framed thereunder, shall come into force with effect from 15 January, 1963.

## THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Products to which applicable	No. & Title of Re- levant Indian Stan- dard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
	IS:55 	Ultramarine Blue for Paints.	IS:55-1950 Speci- fication for Ultra- marine Blue for Paints.	The monogram of the Indian Standards Institution con- sisting of letters ISI, drawn in the exact style and relative proportions as indicated in Col. (2) the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.

[No. MD/17:2]

**S.O. 81.**—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the marking fee per unit for Ultramarine Blue for Paints details of which are given in the Schedule hereto annexed, has/have been determined and the fee shall come into force with effect from 15 January 1963.

## THE SCHEDULE

Sl. No.	Product/Class of Products	No. and title of re- levant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
I	Ultramarine Blue for Paints.	IS:55-1950 Specification for Ultramarine Blue for Paints.	One Metric Tonne	Rs. 3.00 per unit for the first 500 units, Rs. 2.00 per unit for the 501st unit and above, with a minimum of Rs. 1500.00 for production during a calendar year.

[No. MD/18:2.]

C. N. MODAWAL,  
Head of the Certification Marks Division.

## MINISTRY OF STEEL &amp; HEAVY INDUSTRIES

(Department of Iron &amp; Steel)

New Delhi, the 4th January 1963

## IRON &amp; STEEL (CONTROL) AMENDMENT ORDER, 1963

S.O. 82/ESS. COMM/IRON & STEEL/AM(8).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Iron and Steel (Control) Order, 1956, namely:—

1. This Order may be called the Iron and Steel (Control) Amendment Order, 1963.

2. In the Iron and Steel (Control) Order, 1956, in clause 2, for sub-clause (j), the following sub-clause shall be substituted, namely:—

"(j) "scrap" means fresh un-used defective iron and steel materials, re-rollable scrap of all varieties and ingot mould in all forms.

*Explanation.*—A certificate signed by the Controller or any officer authorised by him in this behalf shall be conclusive proof that the material in respect of which the certificate is issued is "scrap" for the purpose of this Order."

[No. SC(A)-5(2)/62.]

H. S. GILL, Under Secy.

## MINISTRY OF MINES &amp; FUEL

## CORRIGENDUM

New Delhi, the 22nd December 1962

S.O. 83.—In the schedule to the notification of the Government of India in the Ministry of Mines and Fuel No. S.O. 3523, dated 12th November, 1962, published in Part II, Section 3 Sub-Section (ii) of the Gazette of India dated 24th November, 1962.

at page 3841 in line 13 for "F-H line" read "G-H line"

[No. C2-22(5) /59.]

**ERRATUM**

*New Delhi, the 28th December, 1962*

**S.O. 84.**—In the Schedule to the notification of the Government of India, in the Ministry of Mines and Fuel, S.O. No. 3155, dated 4th October, 1962, published in Part II, Section 3, Sub-section (ii) of the Gazette of India dated the 20th October, 1962:—

**1. at page 3283—**

- (i) in the seventh column, against Serial No. 4, insert "Part";
- (ii) under the heading Plot Nos. acquired in village Basiya, for "14123", read "1423";
- (iii) in the paragraph beginning with "B-C-D-E-F-line passes through Plot Nos.", for "152", read "142";

**2. at page 3284—**

- (i) under the heading Plot Nos. acquired in village Phulbasia, for "1405(P), 1537(P)", read "1405(P), 1406(P), 1537(P)";
- (ii) in the paragraph beginning with "L-M, line passes along the common boundary of villages Ganeshpur and Chotar", for "Chotar", read "Chetar".

[No. C2-20(13)/58.]

P. S. KRISHNAN, Under Secy.

**MINISTRY OF FOOD AND AGRICULTURE**

(Department of Agriculture)

*New Delhi, the 7th January, 1963*

**S.O. 85.**—The following draft of rules further to amend the Bristles (Grading and Marking) Rules, 1962, which the Central Government proposes to make with effect from 1st April, 1962, in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937, (1 of 1937), is hereby published for general information as required by the said section. Notice is hereby given that the said draft will be taken into consideration on or after 30th January, 1963, and that any objection or suggestion with respect to the said draft received by the Central Government within fifteen days of the date of issue of aforesaid notification will be considered by the Central Government.

**DRAFT RULES**

**1. These rules may be called the Bristles (Grading and Marking) Amendment Rules, 1963.**

**2. In rule 6 of the Bristles (Grading and Marking) Rules, 1962,—**

- (a) in sub-rule (ii) for the figure and abbreviation "3 kg.", the figure and abbreviation "2 kg." shall be substituted;
- (b) in sub-rule (iv), in clause (a) for the figure and abbreviation "3 kg", the figure and abbreviation "2 kg" shall be substituted;
- (c) in sub-rule (v) for the figure and abbreviation "3 kg", the figure and abbreviation "2 kg" shall be substituted.

[No. F. 12-5/62-AM.]

**CORRIGENDUM**

*New Delhi, the 7th January, 1963*

**S.O. 86.**—In the notification of the Ministry of Food and Agriculture (Department of Agriculture) No. F. 16-1/62-AM, dated the 17th of October, 1962, containing the Essential Oils Grading and Marking (Amendment) Rules, 1962, published as S.O. 3229, on pages 3464 to 3467, of the Gazette of India, Part II Section 3(ii) dated October 27, 1962:—

**I. In Schedule VIII\*,—**

## (i) In the heading—

*For "Physico-Chemical Characteristics"*

*Read "Physico-Chemical Characteristics"*

## (ii) In the heading of Column 8—

*For "Percent by weight mine"*

*Read "percent by weight min."*

## (iii) In the heading of Column 9—

*For "percentage by weight mine"*

*Read "percent by weight min."*

**II. In Schedule IX\* against the entry "Grade A", in Column 3,**

*for "10° to 25°"*

*Read "+10° to +25°"*

**III. In Schedule X\*,—**

## (i) in the heading—

*For "Grades designation"*

*Read "Grade designation".*

## (ii) in Column 3—

*For "10° to 25°"*

*Read "+10° to +25°"*

[No. F. 16-1/62-AM.]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

(I.C.A.R.)

*New Delhi, the 3rd January 1963*

**S.O. 87.**—In pursuance of sub-section (j) of section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint the following persons as members of the Indian Central Oilseeds Committee, to represent the village oilseeds crushing industry, for the period ending on 31st March, 1965:—

1. Shrimati Pratima Bose, Chairman, West Bengal Khadi and Village Industries Board, 14, Princep Street, Calcutta-13.
2. Shri Swami Ramanand Tirth, Vice-Chairman, Maharashtra State Khadi and Village Industries Board, Seva Niketan, Begam Peth, Sultan Bazar, Hyderabad.
3. Sri Sirasappa Ijari, M.L.A., Harpanahalli, District Bellary, Member of Khadi Board, Bangalore.

[No. 8-36/62-Com. II.]

N. K. DUTTA, Under Secy.

**MINISTRY OF WORKS, HOUSING & REHABILITATION**

(Dept. W.&amp;H.)

*New Delhi, the 1st January 1963*

**S.O. 88.**—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the Deputy Director of Estates, Directorate of Estates, New Delhi, being gazetted officer of Government, to be the estate officer for the purposes of the said Act in respect of the public premises of Hotel Janpath, New Delhi.

[No. 24/1/62-EEII/EEI.]

S. L. VASUDEVA, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

*New Delhi, the 27th December 1962*

**S.O. 89.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri Gulab L. Ajwani, Assistant Settlement Commissioner as Settlement Commissioner for the purpose of performing the functions assigned to such officer by or under the said Act with effect from the date he took charge of his office.

[No. 5(10)61/ARG.]

**S.O. 90.**—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the state of Madhya Pradesh & Bihar, Shri Gulab L. Ajwani for the time being holding the post of Assistant Settlement Commissioner as Custodian of Evacuee Property for the purpose of discharging the duties assigned to such officer by or under the said Act with effect from the date he took over charge of his office.

[No. 5(10)61/ARG.]

KANWAR BAHADUR,  
Settlement Commissioner (A)  
& Ex-Officio Dy. Secy.

**MINISTRY OF LABOUR AND EMPLOYMENT***New Delhi, the 2nd January 1963*

**S.O. 91.**—In exercise of the powers conferred by sub-section (2) of section 1 of the Working Journalists (Amendment) Act, 1962 (65 of 1962), the Central Government hereby appoints the fifteenth day of January, 1963, as the date on which the said Act shall come into force.

[No. F. 55/5/62-LRI.]

*New Delhi, the 3rd January 1963*

**S.O. 92.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the industrial dispute between the employers in relation to the Jaipur Mineral Development Syndicate (Private) Limited, Jaipur and their workmen.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DELHI

## PRESENT:

Shri Anand Narain Kaul,  
 Central Government Industrial Tribunal, Delhi.

13th December, 1962.

REFERENCE I.D. No. 291 of 1962.

## BETWEEN

The management of Messrs. Jaipur Mineral Development Syndicate (Private) Limited, Jaipur

## AND

Their workmen

No appearance on either side.

## AWARD

By S.O. No. 23/29/62-LRII, dated the 22nd October, 1962 the Central Government has referred to this Tribunal, for adjudication an industrial dispute between the employers in relation to Messrs. Jaipur Mineral Development Syndicate (Private) Limited, Jaipur (to be referred to hereinafter as the Syndicate) and their workmen in respect of the matters in dispute as specified in the Schedule annexed to the reference. The dispute, as specified in the Schedule, is as follows:—

Whether the action of the employers in relation to their Dagota Jharna mines near Dausa, District Jaipur (Rajasthan), in regard to the dismissal of the following workmen with effect from the dates respectively mentioned against the names of each was justified? If not, to what relief they are entitled?

1. Shri Mangia, son of Govinda Kohli		1-1-62.
2. Shri Harsahai, son of Praima Kohli		1-1-62.
3. Shri Prabh, son of Panchu Lal		8-1-62.
4. Shri Bhagirath, son of Jainarain		23-1-62.

2. On receipt of the reference notices were issued to the General Manager of the Syndicate and to the Secretary, Dagota Khan Mazdoor Union, Dagota, for filing their respective written statements. On 29th November, 1962, which was fixed for the purpose, no statement of claim was received from the Union. On 13th December, 1962, however, a joint application signed on the one hand by the Deputy General Manager on behalf of the Syndicate and, on the other, by Shri Nizamuddin, representing the Union of employees was received along with a memorandum of agreement entered into before the Conciliation Officer, Ajmer at Jaipur and purporting to be signed by the aforesaid representatives of the parties. In the joint application there is a prayer for the passing of a no dispute award.

3. In view of the joint application and of the fact that no one has appeared today on behalf of the parties, I see no reason why a no dispute award be not passed. I accordingly pass a no dispute award, as desired by the parties.

(Two pages).

The 13th December, 1962.

Sd/- ANAND NARAIN KAUL,  
 Central Government Industrial Tribunal,  
 Delhi

[No. 23/29/62-LRJI.]

## ORDERS

*New Delhi, the 2nd January 1963*

**S.O. 93.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Parbelia Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

## SCHEDULE.

Whether the management of Parbelia Colliery was justified in terminating the services of Shri Mangal Lohar with effect from 27th August 1962. If not, to what relief the workman is entitled?

[No. 6/16/62-LRII.]

*New Delhi, the 5th January 1963*

**S.O. 94.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the 6 and 7 Pits Colliery owned by Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

## SCHEDULE.

Whether the dismissal of Sarvasi J. N. Karmakar, Gorachand Ray and J. L. Missir, Mining Sirdars by the management of Jamadoba 6 and 7 Pits Colliery owned by Messrs Tata Iron and Steel Company Limited, Post Office Jealgora, District Dhanbad, was justified? If not, to what relief are they entitled?

[No. 2/106/62-LRIL]

A. L. HANNA, Under Secy.

*New Delhi, the 4th January 1963*

**S.O. 95.**—Whereas, in the opinion of the Central Government:—

(1) The rules of the provident fund of M/s East India Carpet Company Limited, Gwalior (Madhya Pradesh) (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

### SCHEDULE.

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees before giving his approval the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accent the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exemplified fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 naye paise that is, 2.5 naye paise shall be counted as 5 Naye paise and any amount less than 2.5 Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 9(26), 61-PF-II.]

**S.O. 96.—**Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of the Jivaiceerao Cotton Mills Ltd., Birla Nagar (Madhya Pradesh) (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds, Act, 1952 (19 of 1962), and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

### SCHEDULE.

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer' shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12 $\frac{5}{10}$  naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12 $\frac{5}{10}$  naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2 $\frac{5}{10}$  naye paise shall be counted as 5 naye paise and any amount less than 2 $\frac{5}{10}$  Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at rate of 4 $\frac{1}{2}$  per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 9(26)61-PF-II.]

**S.O. 97.—Whereas, in the opinion of the Central Government:—**

(1) The rules of the provident fund of M/s. Nandlal Bhandari Mills Ltd., Indore (Madhya Pradesh) (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st June, 1953, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 Naye paise and any amount less than 2.5 Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of  $4\frac{1}{2}$  per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 9(26)61-PFI.I.]

*New Delhi, the 5th January 1963*

**S.O. 98.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government makes the following amendment in the notification of the Government of India in Ministry of Labour and Employment No. S.O. 3415, dated the 3rd November, 1962, published in the Gazette of India, dated the 10th November, 1962 Part II—Section 3, Sub-section (ii) on page 3709.

In the said notification, for the words "30th April 1962 (forenoon)" the words "30th April, 1962 (afternoon)" shall be substituted.

[No. 17(26)62-PF. I/I.]

*New Delhi, the 8th January 1963*

**S.O. 99.**—Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M/s. National Casting Company, 103, Foreshore Road, Sibpore, Howrah (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of

employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12·5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12·5 naye paise shall be ignored. The amount of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2·5 naye paise shall be counted as 5 Naye paise and any amount less than 2·5 Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)62-PFII.]

**S.O. 100.—**Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident Fund of M/s. East Bengal Engineering Works, 2-Rustomji Parsee Road, Cossipore, 24-Parganas (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st April, 1953, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment

of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption,

would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 Naye paise and any amount less than 2.5 Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of  $4\frac{1}{2}$  per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PFII.]

**S.O. 101.—**Whereas in the opinion of the Central Government:—

(1) The rules of the provident fund of M/S. Howrah Iron Works, 20, Nityadhan Mukherjee Road Howrah (West Bengal) (hereinafter to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Fund Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby, exempts the said establishment with effect from the 1st July, 1953, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

**SCHEDULE**

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2 The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely—

- (a) the provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes,
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3 The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4 (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book in such form as may be approved, to each subscriber who but for the exemption would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5 The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6 All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7 The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8 The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9 When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities

and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 Naye paise and any amount less than 2.5 Naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent. or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PFII.]

#### S.O. 102.—Whereas, in the opinion of the Central Government:—

(1) The rules of the provident fund of M/S. The Bengal Electric Lamp Works Ltd., 137, P. G. H. Shah Road, Calcutta (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, In exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme subject to the conditions specified in the Schedule hereo annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the provident Fund shall best in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such account relating to the Provident Fund of the establishment as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities

and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 naye paise and any amount less than 2.5 naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(28)/62-PFII.]

**S.O. 103.—Whereas,** in the opinion of the Central Government:—

(1) The rules of the provident fund of M/s. Bowreah Cotton Mills Ltd., Bauria P.O. District Howrah (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time, direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities

and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is 12.5 naye paise or more half be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paisa shall be counted as 5 naye paise and any amount less than 2.5 naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PFII.]

**S.O. 104.**—Whereas, in the opinion the Central Government:—

- (1) The rules of the provident fund of M/s. Gondalpara Jute Mills, Chandernagore, District—Hoogly (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 8 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme), in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 8 of the Act, and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12·5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12·5 naye paice shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paice; that is, 2·5 naye paice shall be counted as 5 Naye paice and any amount less than 2·5 naye paice shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½% per cent. or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26) /62-PFII.]

**S.O. 105.—Whereas, in the opinion of the Central Government:—**

- (1) the rules of the provident fund of Messrs., East India Pharmaceutical Works Limited, 136, Pathakpara Road, Calcutta-34 and 118, Biren Roy Road, Calcutta-8 (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952, (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952, (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st October, 1956, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act, and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the

interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;

- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12·5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12·5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2·5 naye paise shall be counted as 5 Naye paise and any amount less than 2·5 Nayc paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of  $4\frac{1}{2}\%$  or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PFII.1]

**S.O. 106.—Whereas,** in the opinion of the Central Government:—

- (1) The rules of the provident fund of Shri Annapurna Cotton Mills Ltd., P.O. Shamnagar, Distt. 24 Parganas (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st August, 1954 from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a Majority of votes;

(c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3 The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4 (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5 The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the EP. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12½ Paise or more shall be counted as the next higher

quarter of a rupee and fractions of a rupee less than 12½ naye Paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye Paise; that is, 2½ naye Paise shall be counted as 5 naye Paise and any amount less than 2½ naye Paise shall be ignored.

13 On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14 The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16 The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11/26/62/PF.II.]

**S.O 107.**—Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M/s. W.H. Harton and Company Limited, 144, 145, J.N. Mukherjee Road, Ghosur, District Howrah (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a Majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is

exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12 $\frac{5}{8}$  naye Paisa or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12 $\frac{5}{8}$  naye Paisa shall be ignored. The amounts of inspection charges and damages shall be calculated to

the nearest 5 naye Paise; that is, 2·5 naye Paise shall be counted as 5 naye Paise and any amount less than 2·5 naye Paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional, State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11/26/62/PF.II.]

**S.O. 108.**—Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M/s. The Bengal Distilleries Co. Ltd., P.O. Bhadrakali, District Hooghly (hereinafter referred to as the said establishment) with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (10 of 1952), and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (10 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 30th November 1957, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred

to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12·5 naye Paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12·5 naye Paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye Paise; that is, 2·5 naye Paise shall be counted as 5 naye Paise and any amount less than 2·5 naye Paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11/26/62/PF.II.]

**S.O. 109.—**Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M/s. Angus Co. Ltd., Bhadrashwar, Hoogly (hereinafter referred to as the said establishment) with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE.

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a Majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose

jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12 $\frac{1}{2}$  naye Paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12 $\frac{1}{2}$  naye Paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye Paise; that is, 2 $\frac{1}{2}$  naye Paise shall be counted as 5 naye Paise and any amount less than 2 $\frac{1}{2}$  naye Paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4 $\frac{1}{2}$  per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserves the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11/26/62/P.F.II.]

**S.O. 110.—**Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M. S. Rampuria Cotton Mills Limited, Scampore, District, Hooghly (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a Majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where

any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishments Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12·5 paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12·5 paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 paise; that is, 2·5 paise shall be counted as 5 paise and any amount less than 2·5 paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employes in the establishment.

[No. 11/26/62/PF.II.]

P. D. GAIHA, Under Secy.

*New Delhi, the 7th January 1963*

**S.O. 111.**—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), read with sub-rule (1) of rule 3 of the Mica Min's Labour Welfare Fund Rules, 1948, the Central Government hereby appoints Shri Ram Ratan Rajgarhia, as a member of the Mica Mines Labour Welfare Fund Advisory Committee for the State of Bihar vice Shri Ajit Kumar Samonta and makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2721, dated the 21st August, 1962, namely:—

In the said notification, against item 7, for "Shri Ajit Kumar Samonta" following shall be substituted, namely:—

"Shri Ram Ratan Rajgarhia".

[No. 23(8)61-MIII.]

R. C. SAKSENA, Under Secy.

#### ORDERS

*New Delhi, the 2nd January 1963*

**S.O. 112.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Oriental Fire and General Insurance Company Limited, New Delhi and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Delhi, constituted under section 7A of the said Act.

#### SCHEDULE.

Whether the supersession of Sarvashri R. L. Sharma, M. R. Mahajan, S. R. Gupta, J. P. Sharma and V. K. K. Murthy in the matter of promotion to the grade of Special Assistant is justified and, if not, to what relief are they entitled?

[No. 70(20)/62-LRIV.]

*New Delhi, the 7th January 1963*

**S.O. 113.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Calcutta Port Commissioners, Calcutta, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

(1) Whether the removal of Shri A. R. Chatterjee, Gate Supervisor, No. 8 Workshop, Calcutta from the services of the Commissioners for the Port of Calcutta, by the Port Administration was justified; and  
(2) if not, to what relief he is entitled?

[No. 28/24/62-LRIV.]

G. JAGANNATHAN, Under Secy.

ORDER

New Delhi, the 7th January 1963

**S.O. 114.**—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts for a further period of one year with effect from the 22nd January, 1963, from the payment of the employer's special contribution leviable under Chapter V-A of the said Act, every factory wherein ten or more persons are not employed, or were not employed at any time during the preceding twelve months, by the principal employer directly or by or through an immediate employer, even though twenty or more persons are or were working in the premises.

[No. F. 6(60)/62-HI]

O. P. TALWAR, Under Secy.